ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0085, EPA–HQ–OAR–2003–0051; FRL–8471–02–OAR]

RIN 2060–AV19

National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, and Coke Oven Batteries; Residual Risk and Technology Review, and Periodic Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review conducted for the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for the Coke Ovens: Pushing, Quenching, and Battery Stacks (PQBS) source category and the periodic technology review for the Coke Oven Batteries (COB) source category NESHAP. The EPA is finalizing a determination that risks due to emissions of hazardous air pollutants (HAP) from the PQBS source category are acceptable and that the current NESHAP provides an ample margin of safety to protect public health.

DATES: This final rule is effective on July 5, 2024, except for amendatory instruction 3, which is effective July 15, 2024. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register beginning July 5, 2024. The IBR of certain other material listed in the rule was approved by the Director of the Federal Register as of July 13, 2005.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID Nos. EPA–HQ–OAR–2002–0085 for the Coke Ovens: Pushing, Quenching, and Battery Stacks (PQBS) source category and EPA–HQ–OAR–2003–0051 for the Coke Oven Batteries (COB) source category. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact U.S. EPA, Attn: Donna Lee Jones, Sector Policies and Programs Division (MD–243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5251; email address: *jones.donnalee@epa.gov.* For specific information regarding the risk modeling methodology, contact U.S. EPA, Attn: Michael Moeller, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2766; email address: *moeller.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: Under the technology review for the PQBS NESHAP, we are finalizing new maximum achievable control technology standards for unregulated HAP or sources of HAP and a 20 percent opacity limit for bypass/waste heat stacks at heat and/or nonrecovery (HNR) facilities. Under the technology review for the COB NESHAP, we are lowering the limits for leaking doors, lids, and offtakes at by-product (ByP) facilities to reflect improvements in practices, processes, or technology, a requirement for fenceline monitoring for benzene (as a surrogate for coke oven emissions) with a requirement to conduct a root cause analysis and corrective action upon exceeding an action level of benzene; a revised equation to estimate emissions from leaks of ByP oven doors; a requirement of zero leaking oven doors at HNR facilities and pressure monitoring in either oven or common tunnels. We are finalizing the removal of exemptions for periods of startup, shutdown, and malfunction consistent with a 2008 court decision, clarifying that the standards apply at all times; and the addition of electronic reporting for performance test results and compliance reports.

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

1–BP 1-bromopropane
ACI activated carbon injection
ANSI American National Standards Institute
APCD air pollution control device
B/W bypass/waste heat
BDL below detection limit
BTF beyond-the-floor
ByP coke production process with by-product chemical recovery
CAA Clean Air Act
CBI confidential business information
CBRP coke by-product chemical recovery plant
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
COB coke oven batteries
CE Cost Effectiveness
COE coke oven emissions
CRA Congressional Review Act
DCOT digital camera opacity technique
D/F dioxin and furans
EAV equivalent annualized value
EDL estimated level of detection
EDT Eastern Daylight Time
EIA economic impact analysis
EMPC estimated maximum potential concentration
EPA Environmental Protection Agency
ERPG emergency response planning guideline
ERT Electronic Reporting Tool
FR Federal Register
FTIR Fourier Transform Infrared Spectroscopy
gr/dscf grains per dry standard cubic feet
HAP hazardous air pollutants(s)
HCl hydrochloric acid
HCN hydrogen cyanide
HEM human exposure model
HF hydrogen fluoride
HNR heat and nonrecovery (i.e., no chemical recovery), or nonrecovery with no heat recovery
HQ hazard quotient
HRSG heat recovery steam generator
IBR incorporation by reference
ICR information collection request
km kilometer
LAER lowest achievable emissions rate
lb/ton pounds per ton
LDAR leak detection and repair
LEAN Louisiana Environmental Action Network
MACT maximum achievable control technology
MIR maximum individual risk
NA not applicable
NAICS North American Industry Classification System
ND number of doors
NESHAP national emission standards for hazardous air pollutants
NSPS New Source Performance Standards
NTTAA National Technology Transfer and Advancement Act
O2 oxygen dioxide
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget

OP Office of Policy
PAH polycyclic aromatic hydrocarbons
PDF portable document format
PLD percent leaking doors
PLD_{bench} percent leaking doors from the bench
$PLD_{bench\text{-}only}$ percent leaking doors from the bench only
PLD_{yard} percent leaking doors from the yard
PM particulate matter
PRA Paperwork Reduction Act
ppbv parts per billion by volume
ppbw parts per billion by weight
ppmv parts per million by volume
ppmw parts per million by weight
PQBS pushing, quenching, and battery stacks
RCACA root cause analysis and corrective action
REL reference exposure limit
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
RTR risk and technology review
SO_2 sulfur dioxide
SSM startup, shutdown, and malfunction
SSMP site-specific monitoring plans
TBD to be determined
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
UPL upper prediction limit
$\mu g/m^3$ microgram per cubic meter
URE unit risk estimate
U.S. United States
VCS voluntary consensus standards
VE visible emissions
VOC volatile organic compound
VOHAP volatile organic HAP
WAS wet alkaline scrubber

Background information. On August 16, 2023, the EPA proposed revisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Pushing, Quenching, and Battery Stacks (PQBS) based on our risk and technology review (RTR), and for the Coke Oven Batteries (COB) NESHAP based on our technology review. In this action, we are finalizing decisions and revisions for the rules. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the document, *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review,*[1] hereafter referred to as the "*Response to Comment*" document, which is available in the dockets for this final action (Docket ID No's. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051). A "track changes" or "redline strikeout" version of the regulatory language that incorporates the changes in this action is available in the dockets.

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I. General Information

A. Executive Summary

1. Purpose of the Regulatory Action

The Environmental Protection Agency (EPA) is finalizing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Coke Ovens: Pushing, Quenching, and Battery Stacks (PQBS) source category and NESHAP for the Coke Oven Batteries (COB) source category. The purpose of this final action is to fulfill the EPA's statutory obligations pursuant to Clean Air Act (CAA) sections 112(d)(2), (d)(3) and (d)(6) and improve the emissions standards for the COB and PQBS source categories based on information regarding developments in practices, processes, and control technologies ("technology review").

In addition, this action fulfills the EPA's statutory obligations pursuant to CAA section 112(f)(2) to evaluate the

[1] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

maximum achievable control technology (MACT) standards for the PQBS source category to determine whether additional standards are required to address any remaining risk associated with hazardous air pollutant (HAP) emissions from this PQBS source category ("residual risk review").

2. Summary of the Major Provisions of This Regulatory Action

Under the residual risk review for the PQBS NESHAP pursuant to CAA section 112(f)(2), the EPA estimated the inhalation maximum individual risk (MIR) for cancer (based on current actual emissions levels) due to HAP emissions from PQBS sources is 9-in-1 million, and the MIR based on allowable emissions was slightly higher (10-in-1 million). All estimated noncancer risks are below a level of concern. Based on these risk results and subsequent evaluation of potential controls (*e.g.,* costs, feasibility and impacts) that could be applied to reduce these risks even further, we are promulgating a determination that risks due to HAP emissions from the PQBS source category are acceptable and the PQBS NESHAP provides an ample margin of safety to protect public health. Therefore, we are not finalizing amendments under CAA section 112(f)(2).

Under the technology review for the PQBS NESHAP pursuant to CAA section 112(d)(6), and consistent with the Louisiana Environmental Action Network (LEAN*)* court decision,[2] the EPA is finalizing MACT standards for previously unregulated HAP emissions pursuant to CAA sections 112(d)(2) and (3), and 112(h). The EPA identified unregulated HAP and emissions source combinations from PQBS sources,as follows: acid gases (AG) (*i.e.,* the sum of hydrochloric acid and hydrofloric acid), dioxin and furans (D/F), formaldehyde, hydrogen cyanide (HCN), mercury (Hg), polycyclic aromatic hydrocarbons (PAH), and volatile organic HAP (VOHAP) from pushing operations; AG, D/F, HCN, Hg, PAH, particulate matter (PM) nonmercury HAP metals (*e.g.,* lead and arsenic), and VOHAP from by-product (ByP) coke facility battery stacks; AG, formaldehyde, Hg, PAH, and PM nonmercury metals from heat and/or nonrecovery (HNR) facilities' heat recovery steam generators (HRSG) main stacks; AG, formaldehyde, Hg, PAH, PM nonmercury metals, and VOHAP from HNR facilities' bypass/waste heat (B/W) stacks. In this action, under the authority of CAA sections 112(d)(2) and (3) and 112(h), we are finalizing MACT floor standards (*i.e.,* the minimum stringency level allowed by the CAA) for these previously unregulated HAP.

Also under the technology review for the PQBS NESHAP pursuant to CAA section 112(d)(6), the EPA also is setting a 20 percent opacity limit for HNR B/W stacks to be measured weekly. The EPA did not identify any other cost-effective options to reduce emissions from currently regulated sources under the PQBS NESHAP.

The EPA is finalizing amendments under the technology review for the COB NESHAP pursuant to CAA section 112(d)(6) to include: (1) lower emission leak limits for ByP facility coke oven doors, lids, and offtakes; (2) for ByP facilities, continuous fenceline monitoring for benzene along with an action level for benzene (as a surrogate for coke oven emissions) and a requirement for root cause analysis and corrective actions (RCACA) if the action level is exceeded; (3) for HNR facilities, a requirement to demonstrate that there are zero leaks from their oven doors, as well as to ensure negative pressure in the ovens or common tunnels; and (4) a revised equation to estimate emissions from leaks of ByP oven doors that better represents the current industry emissions. The EPA did not identify any other cost-effective options to reduce emissions from currently regulated sources under the COB NESHAP.

We conducted a demographics analysis that indicates that the population within 10 kilometers (km) of the coke oven facilities with whole facility cancer risks greater than or equal to 1-in-1 million is predominantly white (62 percent versus 60 percent nationally). The population with whole facility cancer risks greater than or equal to 1-in-1 million is 30 percent African American compared to the national average of 12 percent. The population with whole facility cancer risks greater than or equal to 1-in-1 million living within 10 km of the two facilities located in Alabama is 56 percent African American, which is significantly higher than the national average. The population with whole facility cancer risks greater than or equal to 1-in-1 million also is above the national average for the percent of the population living below poverty (17 percent versus a 13 percent national average).

In addition, we are finalizing: (1) the removal of exemptions for periods of startup, shutdown, and malfunction (SSM) consistent with a 2008 court decision, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), and clarifying that the emissions standards apply at all times; and (2) the addition of requirements for electronic reporting of performance test results and compliance reports for both NESHAP and fenceline monitoring reports for the COB NESHAP.

3. Costs and Benefits

Cost impacts will occur due to the required source testing that includes: testing every 5 years to demonstrate compliance with the promulgated MACT floor standards for PQBS; weekly opacity testing of HNR B/W heat stacks; daily visible leak testing of HNR ovens doors; and fenceline monitoring at ByP facilities. The total costs for the rules are estimated to be $4.0 million per year for the 11 operating facilities ($2023), with $500,000 per facility, on average for the five HNR facilities and $250,000 per facility, on average, for the 6 ByP facilities. The testing to demonstrate compliance with the MACT limits is estimated to be $3.3 million total for the 11 operating facilities, with $300,000 per facility on average. The HNR B/W stack opacity testing is estimated to be $22,000 total for the five HNR facilities, with $4,400 per facility on average. The HNR daily door leak testing with EPA Method 303A is estimated to be $105,000 total for the five HNR facilities, with $21,000 per facility on average. The fenceline monitoring costs are estimated to be $640,472 for the six ByP facilities, with $107,000 per facility on average.

The EPA has not quantified any benefits associated with this final rule because all covered facilities are expected to already have HAP emissions levels that are below the final limits, based on facility data available to the EPA. However, the EPA anticipates that this final rule's new requirements will increase the likelihood of facilities successfully detecting any HAP emissions in excess of the specified limits, allowing for earlier corrective action and thus preventing pollution increases that could otherwise occur. The potential public health benefits associated with such prevention are difficult to estimate, given that they correspond to hypothetical scenarios of emissions beyond those indicated by current facility data, and are thus not quantified in EPA's analysis.

4. Community Outreach

The EPA held a virtual public hearing on August 31, 2023, from 11:00 a.m. to 3:00 p.m. eastern daylight time (EDT), where 37 speakers provided oral comments. The EPA held a virtual webinar on September 14, 2023, from 6:00 p.m. to 7:30 p.m. EDT, where 34 registrants participated.

[2] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

B. Does this action apply to me?

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

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

Source category	NESHAP	NAICS[a] code
Coke Ovens: Pushing, Quenching, and Battery Stacks.	40 CFR part 63, subpart CCCCC	331110 Iron and Steel Mills and Ferroalloy Manufacturing.
Coke Oven Batteries	40 CFR part 63, subpart L	324199 All Other Petroleum and Coal Products Manufacturing.

[a] North American Industry Classification System.

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

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

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

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

D. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 3, 2024. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

II. Background

A. What is the statutory authority for this action?

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

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

In the second stage of the regulatory process, the CAA requires the EPA to

undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). In conducting this review, the EPA is not required to recalculate the MACT floors that were established in earlier rulemakings. *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013). The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6). The EPA is required to address regulatory gaps, such as missing standards for listed air toxics known to be emitted from the source category, and any new MACT standards must be established under CAA sections 112(d)(2) and (3), or, in specific circumstances, CAA sections 112(d)(4) or (h).[3] Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[4] For more information on the statutory authority for this rule, see 88 FR 55858.

B. What are coke ovens, what are the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries source categories, and how do the NESHAP regulate HAP emissions from the source categories?

Coke ovens are chambers of brick or other heat-resistant material in which coal is heated to separate the gas, water, and tar in coal to produce coke, a fuel and source of carbon used in steelmaking. The coking process takes place at two types of facilities: (1) ByP facilities, where chemical by-products are recovered from coke oven emissions (COE), a CAA section 112(b) listed HAP, in coke oven exhaust at a co-located coke byproduct chemical recovery plant (CBRP); or (2) HNR facilities, where chemicals are not recovered (and, therefore, are called ''nonrecovery'' facilities), but heat may be recovered from the exhaust from coke ovens in a heat recovery steam generator (HRSG). There are 12 coke facilities in the United States (U.S.), with 11 of these currently operating. Seven of these facilities use the ByP process and five use the HNR process. Of the five HNR facilities, four have HRSGs and one does not. For additional background information on the source categories see the proposal preamble (88 FR 55858).

The COB NESHAP (40 CFR part 63, subpart L), promulgated in 1993, set emission limits (via limiting the number of seconds of visible emissions (VE)) from doors, lids, and offtakes at HNR facilities and any new ByP facilities to 0 percent leaking. The NESHAP for PQBS (40 CFR part 63, subpart CCCCC) were promulgated on April 14, 2003. The PQBS NESHAP established emissions standards for pushing coke out of ovens, quenching hot coke, and battery stacks of oven combustion.

For nonrecovery facilities, *i.e.,* facilities that do not recover chemicals, operating before 2004, the 1993 COB NESHAP required good operating and maintenance practices to minimize emissions during charging. The 1993 promulgated requirement for charging affected only SunCoke's Vansant (Virginia) facility, which is a nonrecovery coke facility, and also does not recover heat. For the nonrecovery facilities that recover heat that began operating after 2004, which includes the other four HNR facilities and any future HNR facilities, the NESHAP regulates charging via PM and opacity limits, requires a PM control device, and establishes work practices for minimizing VE during charging.

For ByP facilities, the COB NESHAP regulates emissions occurring during the charging of coal into the ovens and from leaking oven doors, leaking topside charging port lids, and leaking offtake ducts. The charging process for ByP facilities includes opening the lids on the charging ports on the top of the tall narrow ovens and discharging coal from hoppers of a car that positions itself over the oven port and drops coal into the oven. The COB NESHAP limits the number of seconds of VE during a charge at ByP facilities, as determined by measurements made according to EPA Method 303.

The emissions from leaks at ByP batteries are regulated under the COB NESHAP by limits on the percent of doors, lids, and offtakes that leak COE. The emissions from leaks at HNR batteries are regulated under the COB NESHAP by limits on leaks only from oven doors. At HNR facilities, coal is charged into doors on one end of a long horizontal oven and pushed out the other end through another door at the other end of the oven. The offtake system at ByP facilities includes ascension pipes and collector main offtake ducts that are located on the top of the coke oven and battery. At HNR facilities, a common tunnel collects exhaust from the batteries and also is located on the top of the coke oven and battery. The common tunnels are equipped with afterburners that burn any remaining organics in the coke oven exhaust as it travels through the common tunnel. The common tunnel routes exhaust from the batteries to either HRSG or bypass/waste heat stacks depending on whether there are HRSG at the facility and whether the HRSG are operating.

The standards for the COB NESHAP are codified at 40 CFR part 63, subpart L. The COB NESHAP limits for leaks from doors, lids, and offtakes, and the requirements for charging are based on the regulatory ''track'' of the facilities. The facilities were required by CAA section 112(i)(8) to choose either the MACT track or the lowest achievable emissions rate (LAER) track by 1993 (58 FR 57898). There are no longer any ByP facilities on the MACT track operating today. Of the eleven operating coke facilities, all seven ByP facilities are on the LAER track and one HNR facility (SunCoke's Vansant plant) is on the LAER track; the remaining four HNR facilities are on the MACT track. Any future coke facilities of any type (HNR or ByP) would be on the MACT track,[5] but no additional ByP facilities are expected in the future due to the requirement for 0 percent leaking doors, lids, and offtakes (as determined by EPA Method 303) for new facilities under the COB NESHAP. The positive pressure operation of ByP ovens likely makes it impossible to achieve zero leaks with the current ByP coke oven technology. Therefore, any new facilities would be expected to be only the HNR type, which operate under negative pressure.

The standards for the Coke PQBS NESHAP are codified at 40 CFR part 63,

[3] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

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

[5] *See* CAA section 112(i)(8)(D).

subpart CCCCC and apply to both ByP and HNR facilities. The battery stacks are located only at ByP facilities. The proposed amendments to the Coke PQBS NESHAP added MACT limits for HNR HRSG main stacks and HNR B/W stacks, which are located only at HNR facilities.

C. What changes did we propose for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries source categories in our August 16, 2023, proposal?

On August 16, 2023, the EPA published a proposed rule in the **Federal Register** for the NESHAPs for PQBS and COB, 40 CFR part 63, subparts CCCCC and L, respectively, that took into consideration the RTR analysis for the PQBS NESHAP and technology review for the COB NESHAP. We proposed:

- 17 new MACT standards for previously-unregulated HAP pursuant to CAA sections 112(d)(2) and (3).
- Opacity limit of 10 percent for the HNR B/W stacks and requirement for daily observation of B/W stacks during charging to determine if VE are present.
- Zero leaking oven doors at HNR oven batteries, as determined by EPA Method 303A, which relies on observing VE emanating from the ovens; and also monitoring pressure both in the ovens and the common tunnel, instead of choosing one or the other points to measure pressure and instead of choosing either 0 oven door leaks or pressure monitoring, as the current rule allows.
- Fenceline monitoring for benzene (as a surrogate for COE) along with an action level for benzene and a requirement for RCACA if the action level is exceeded.
- Lower limits for allowable leaks from coke oven doors, lids, and offtakes at ByP facilities.
- Removal of exemptions for periods of SSM consistent with a 2008 court decision, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), and clarifying that the emissions standards apply at all times.
- Addition of electronic reporting for performance test results and compliance reports for both NESHAP.

III. What is included in these final rules?

This action finalizes the EPA's determinations for: (1) the CAA sections 112(f) and 112(d)(6) residual risk and technology review for the NESHAP for the PQBS source category; (2) the CAA section 112(d)(6) technology review for the NESHAP for the COB source category; and (3) other changes to the NESHAP, including the removal of SSM exemptions and addition of electronic reporting.

A. What are the final rule amendments based on the risk review for the Coke Ovens: Pushing, Quenching, and Battery Stacks source category?

Considering the health risk information and factors discussed in the August 2023 proposed rule for the PQBS NESHAP, the EPA is finalizing a determination that the risks for this source category under the current NESHAP provisions are acceptable pursuant to CAA section 112(f). We did not identify any potential cost-effective controls or other measures to reduce risk further under our CAA section 112(f) risk review. Therefore, based on all of the information presented in the proposed rule and in this final rule preamble, we conclude that the current standards in the PQBS NESHAP provide an ample margin of safety to protect public health and are finalizing no changes based on the risk review. Furthermore, based on our screening assessment of environmental risk presented in section IV.B.4. of the August 2023 proposed rule preamble, we have determined that HAP emissions from the Coke Ovens: PQBS source category do not result in an adverse environmental effect, and we are finalizing that it is not necessary to set a more stringent standard to prevent an adverse environmental effect, taking into consideration costs, energy, safety, and other relevant factors.

B. What are the final rule amendments based on the technology reviews for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and Coke Oven Batteries source categories?

As part of the technology review for the PQBS source category, we identified regulatory gaps (previously unregulated processes or pollutants) and are establishing new standards to fill those gaps, as described in section III.C. and IV.C. of this preamble. We also are requiring HNR B/W stacks to meet a limit of 20 percent opacity to be measured weekly at HNR B/W stacks and weekly at HRSG bypass stacks if operating.

For the COB source category, to address fugitive emissions at COB facilities as part of the technology review, we are finalizing a requirement for a work practice based on the results of fenceline monitoring for benzene at ByP facilities. The work practice has an action level of 7 microgram per cubic meter ($\mu g/m^3$) of benzene (as a surrogate for COE) with a requirement for RCACA if the action level is exceeded. We also identified improvements in control of ByP battery leaks and are finalizing reduced allowable limits for the percent of leaking doors, lids, and offtakes at ByP facilities. We are finalizing a requirement to demonstrate there are zero leaking oven doors at HNR facilities, as determined by EPA Method 303A, and requiring either oven pressure or common tunnel pressure monitoring at HNR facilities during the main parts of the oven cycle. Lastly, we are finalizing a revised equation for estimating leaks from ByP coke oven doors based on our evaluation of the historic equation developed from 1981 coke oven leak data supplemented with recent coke oven leak data, and also considering comments received.

C. What are the final rule amendments pursuant to CAA sections 112(d)(2) and (3) for the NESHAP for the Coke Ovens: Pushing, Quenching, and Battery Stacks source category?

We are finalizing 18 MACT floor standards [6] unregulated HAP and process combinations for the NESHAP for PQBS pursuant to CAA sections 112(d)(2) and (3) and 112(h) as follows: (1) MACT floor standards for AG, HCN, Hg, and PAH from pushing operations for existing and new sources; (2) MACT floor standards for AG, HCN, Hg, and PM (as a surrogate for nonmercury HAP metals), and a work practice standard for battery stacks (based on good combustion in battery waste heat flues) for PAH, D/F and VOHAP emissions from battery stacks at ByP facilities for existing and new sources; (3) MACT standards for AG, Hg, PAH, and PM (as a surrogate for nonmercury HAP metals) from HNR HRSG main stacks for existing and new sources; and (4) MACT standards for AG, formaldehyde, Hg, PAH, and PM (as a surrogate for nonmercury HAP metals) for HNR B/W stacks. More details are provided in section IV.C. of this preamble.

D. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction?

We are finalizing the removal of exemptions for periods of startup, shutdown, and malfunction (SSM) largely as proposed, consistent with a 2008 court decision, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), and

[6] Note, we erroneously reported that there were 15 new MACT floor limits in the August 2023 proposal preamble. This was a typographic error. The proposed rule included 17 new MACT floor limits and 2 BTF limits; the BTF limits are not included in the final rule. However, we are adding a work practice standard in this final rule so the count of standards is now 18.

clarifying that the emissions standards apply at all times.

E. What are the final rule amendments addressing electronic reporting?

The EPA is promulgating that owners and operators of coke oven facilities, under both the PQBS NESHAP and COB NESHAP, submit electronic copies of required performance test reports, periodic reports (including fenceline monitoring reports), and periodic certifications through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the dockets for this action (EPA–HQ–OAR–2002–0085–0908 and EPA–HQ–OAR–2003–0051–0748). The promulgated rule requires that performance test results collected using test methods that are supported by the EPA's ERT as listed on the ERT website [7] at the time of the test be submitted in the format generated through the use of the ERT or an electronic file consistent with the *xml* schema on the ERT website, and other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT.

For the quarterly and semiannual compliance reports of the PQBS NESHAP source category and the semiannual compliance certification of the COB NESHAP source category, the promulgated rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the promulgated templates for these reports is included in the docket for this action.[8] The final version of the templates will be available at the CEDRI website *(https://www.epa.gov/electronic-reporting-air-emissions/cedri)*.

The electronic submittal of the reports addressed in this final rulemaking increases the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, further assists in the protection of public health and the environment, improves compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and ultimately reduces the burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [9] to implement Executive Order 13563 and is in keeping with the EPA's agency-wide policy [10] developed in response to the White House's Digital Government Strategy.[11] For more information on the benefits of electronic reporting, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* referenced earlier in this section.

F. What are the effective and compliance dates of the final rule amendments?

These final rules are effective upon promulgation. The compliance date for the MACT standards for sources in the PQBS NESHAP is January 5, 2026. For the periodic MACT compliance testing, we are promulgating that periodic testing be conducted at the beginning of each permit cycle or every 5 years, whichever is shorter. The compliance date for opacity limits on HNR B/W stacks is July 7, 2025. The compliance date for achieving zero leaks from HNR oven doors and concurrent oven or tunnel pressure monitoring is July 7, 2025.

For fenceline monitoring provisions of the COB NESHAP, the compliance date to begin fenceline monitoring is July 7, 2025. The compliance date for complying with the revisions to the limits for allowable leaks from doors, lids, and offtakes is July 7, 2025.

The date for complying with the SSM changes is no later than July 5, 2024 with the exception of recordkeeping provisions. For recordkeeping under the SSM, facilities must comply with this requirement January 2, 2025. The date for complying with the recordkeeping provisions associated with malfunction events is January 2, 2025.

G. What are the final rule amendments addressing adding 1-bromopropane to list of HAP?

On January 5, 2022, the EPA published a final rule amending the list of HAP under the CAA to add 1-bromopropane (1–BP) in response to public petitions previously granted by the EPA. (87 FR 393). Consequently, as each NESHAP is reviewed, the EPA is evaluating whether the addition of 1–BP to the CAA section 112 HAP list impacts the source category. For the PQBS and COB source categories, we concluded that the inclusion of 1–BP as a regulated HAP would not impact the representativeness of the MACT standard because, based on available information, we have no evidence that 1–BP is emitted from this source category. No comments were received on this subject for the coke ovens NESHAP. As a result, no changes are being promulgated to the PQBS and COB NESHAP based on the January 2022 rule adding 1–BP to the list of HAP.

IV. What is the rationale for our final decisions and amendments for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries source categories?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the *Response to Comment* document,[12] which is available in the docket for this final action.

[7] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[8] See Draft Form 5900–618 Coke Ovens Part 63 Subpart L Semiannual Report.xlsx, Draft Form 5900–619 Part 63 Subpart L Fenceline Quarterly Report.xlsx, and Draft Form 5900–621 Coke Ovens Part 63 Subpart CCCCC Semiannual Report.xlsx, available at Docket ID. No EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

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

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

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

[12] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

A. Residual Risk Review for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks Source Category

1. What did we propose pursuant to CAA section 112(f) for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review of the PQBS NESHAP and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the August 16, 2023, proposed rule for the PQBS source category (88 FR 55858). The results of the risk assessment for the proposal are presented in table 2 of this preamble. More detail is in the residual risk technical support document *Residual Risk Assessment for the Coke Pushing, Quenching, and Battery Stacks Source Category in Support of the 2023 Risk and Technology Review Proposed Rule.*[13]

TABLE 2—COKE OVEN PUSHING, QUENCHING, AND BATTERY STACKS SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS IN PROPOSAL

Risk assessment	Number of facilities	Maximum individual cancer risk (in 1 million) [a]	Estimated population at increased risk of cancer ≥ 1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI	Maximum screening acute noncancer HQ
Based on Actual Emissions Level						
Source Category Emissions	14	9	2,900	0.02	0.1 (arsenic)	HQ_{REL} = 0.6 (arsenic)
Facility-Wide	14	50	2.7 million	0.2	2 (HCN)	HQ_{REL} = 0.6 (arsenic)
Based on Allowable Emissions Level						
Source Category Emissions	14	10	440,000	0.05	0.2 (arsenic).	

[a] Maximum individual excess lifetime cancer risk due to HAP emissions.

The results at proposal of the chronic baseline inhalation cancer risk assessment indicated that, based on estimates of current actual emissions, the MIR posed by the PQBS source category was 9-in-1 million driven by arsenic emissions, primarily from bypass/waste heat stacks. The total estimated cancer incidence estimated from this source category at proposal was 0.02 excess cancer cases per year, or 1 case every 50 years. No people were estimated to have inhalation cancer risks greater than 100-in-1 million; the population estimated to be exposed to cancer risks greater than or equal to 1-in-1 million was approximately 2,900. The estimated maximum chronic noncancer target organ-specific hazard index (TOSHI) from inhalation exposure for this source category was 0.1 for developmental effects from arsenic emissions The acute risk screening assessment of reasonable worst-case inhalation impacts indicated a maximum acute hazard quotient (HQ) of 0.6 based on the REL for arsenic.

The results of the inhalation risk assessment at proposal, considering MACT-allowable emissions, indicated that the cancer MIR was 10-in-1 million driven by arsenic emissions, primarily from HNR pushing and bypass/waste heat stacks. The total estimated cancer incidence from this source category based on allowable emissions was 0.05 excess cancer cases per year, or one excess case every 20 years. No people were estimated to have inhalation cancer risks above 100-in-1 million due to allowable emissions, and the population exposed to cancer risks greater than or equal to 1-in-1 million was approximately 440,000. In addition, the maximum modeled chronic noncancer TOSHI for the source category based on allowable emissions was estimated to be 0.2 (for developmental effects from arsenic emissions).

The maximum lifetime individual cancer risk at proposal posed by the 14 modeled facilities and based on whole facility emissions was 50-in-1 million, with COE from coke oven doors (a regulated source in the COB NESHAP), driving the whole facility risk. The total estimated cancer incidence based on facility-wide emission levels was 0.2 excess cancer cases per year. Regarding the noncancer risk assessment, the maximum chronic noncancer TOSHI posed by whole facility emissions was estimated to be 2 (for the neurological and thyroid systems as the target organs) driven by emissions of HCN from CBRPs, which are emissions sources not included within the source category (PQBS) addressed in the risk assessment for this rulemaking nor included in the COB NESHAP.

We weighed all health risk measures and factors, including those shown in table 2 of this preamble, in our risk acceptability determination and proposed that the risks posed by the PQBS source category under the current MACT provisions were acceptable.

Under the proposed ample margin of safety analysis, we again considered all of the health factors evaluated in the acceptability determination and evaluated the cost and feasibility of available control technologies and other measures (including the control devices and other measures examined under the technology review) that could be applied to further reduce risk. We also considered whether, taking into consideration costs, energy, safety, and other relevant factors, additional standards are required to prevent an adverse environmental effect.

We proposed that the current NESHAP provides an ample margin of safety to protect public health and that no additional standards are necessary to prevent an adverse environmental effect. Therefore, we did not propose amendments under CAA section 112(f)(2). However, we noted that the proposed beyond-the-floor (BTF) MACT limits for HNR B/W stacks would reduce the estimated MIR from 9-in-1 million to 2-in-1 million; and the population estimated to be exposed to cancer risks greater than or equal to 1-in-1 million would be reduced from approximately 2,900 to 390 with the proposed BTF MACT limits. The whole facility cancer MIR (the maximum cancer risk posed by all sources of HAP at coke oven facilities) would remain unchanged, at 50-in-1 million with BTF MACT limits, because the whole facility MIR was driven by the estimated actual

[13] *Residual Risk Assessment for the Coke Ovens: Pushing, Quenching, and Battery Stacks Source Category in Support of the 2023 Risk and Technology Review Proposed Rule.* U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, NC. May 2023. Docket No. EPA–HQ–OAR–2002–0085.

current fugitive emissions from coke oven doors and we did not expect reductions of the actual emissions from doors as a result of the proposed rule.

2. How did the risk review change for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks source category?

Changes were made to the risk emission model file used in the risk analyses which resulted in small changes in the estimated risk. These changes are listed below.

- Removed U.S. Steel Clairton batteries 1 through 3 and associated sources that were shut down in 2023.
- Removed Cleveland Cliffs' Follansbee, West Virginia, facility because it permanently closed in Spring 2022.
- Removed Cleveland Cliffs' Middletown, Ohio, facility because it permanently closed as of 2023.
- Corrected latitude and longitude values for two natural gas water heaters at Cleveland Cliffs' Warren, Ohio, facility.
- Corrected the angle of rotation for the byproduct plant fugitive source at Cleveland Cliffs' Warren, Ohio, facility.
- Replaced SunCoke's East Chicago facility's HRSG main stack (default) emissions with test data that was received too late to model for the proposal (received May 2023).
- Incorporated Hg emissions submitted for HNR HRSG main stacks from previous tests for SunCoke's Middletown and East Chicago (Cokenergy) facilities, which also changed the default average HNR HRSG main stack Hg emissions used for two other SunCoke facilities (SunCoke's Franklin Furnace and Gateway facilities).
- Incorporated Hg emissions data from previous tests submitted by SunCoke for HNR B/W stacks, which changed the Hg emissions for SunCoke's Middletown, Vansant, and East Chicago facilities.
- Revised emissions from door leaks based on revisions to new equation as a result of comments.

The results of the risk assessment performed for the final rule that incorporates the above changes are shown in table 3 of this section. The main difference in the risk estimated for the final rule and the proposed rule is the reduction in the whole facility MIR from 50 to 40-in-1 million, resulting primarily from removing two facilities (Cleveland Cliffs' Middleton, Ohio, and Follansbee, West Virginia, facilities) that shut down after years of being idle and removing three batteries (1,2,3) at U.S. Steel's facility in Clairton, Pennsylvania, that were permanently shut down. The baseline PQBS source category MIR remained at 9-in-1 million.

TABLE 3—COKE OVEN PUSHING, QUENCHING, AND BATTERY STACKS SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS

Risk assessment scenario	Number of Facilities	Maximum individual cancer risk (in 1 million)[a]	Estimated population at increased risk of cancer ≥ 1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI	Maximum screening acute noncancer HQ
Based on Actual Emissions Level[b]						
Source Category Emissions	12	9	2,600	0.01	0.1 (arsenic)	HQ_{REL} = 0.6 (arsenic).
Facility-Wide Emissions[b]	12	40	2.4M	0.1	2 (HCN)	HQ_{REL} = 0.6 (arsenic).

[a] Maximum individual excess lifetime cancer risk due to HAP emission.
[b] See section IV.A. of this preamble for more details on the risk assessment.

As noted in the proposal, we weigh a range of health risk measures and factors in our risk acceptability determination, including the cancer MIR, the number of persons in various cancer and noncancer risk ranges, cancer incidence, the maximum noncancer TOSHI, the maximum acute noncancer HQ, and risk estimation uncertainties (54 FR 38044, September 14, 1989). Under the current MACT standards for the PQBS source category, the revised risk results indicate that the MIR is 9-in-1 million, driven by emissions of arsenic. The estimated incidence of cancer due to inhalation exposures is 0.01 excess cancer case per year. No people are estimated to have inhalation cancer risks greater than 100-in-1 million, and the population estimated to be exposed to cancer risks greater than or equal to 1-in-1 million is approximately 2,600. The estimated maximum chronic noncancer TOSHI from inhalation exposure for this source category is 0.1 for developmental effects. The acute risk screening assessment of reasonable worst-case inhalation impacts indicates a maximum acute HQ of 0.6.

We conducted a revised assessment of facility-wide (or ''whole-facility'') risk to characterize the source category risk in the context of whole-facility risk. The maximum lifetime individual cancer risk based on whole-facility emissions is 40-in-1 million with COE from coke oven doors (a regulated source in the COB NESHAP source category) driving the risk. The total estimated cancer incidence based on facility-wide emission levels is 0.1 excess cancer cases per year. No people are estimated to have inhalation cancer risks above 100–in-1 million due to facility-wide emissions, and the population exposed to cancer risk greater than or equal to 1-in-1 million is approximately 2.4 million people. The estimated maximum chronic noncancer TOSHI posed by whole facility emissions is 2 (for the neurological and thyroid systems as the target organs) driven by emissions of HCN from CBRPs, which are emissions sources not included within the source category. Approximately 10 people are estimated to be exposed to a TOSHI greater than 1 due to whole facility emissions. The acute risk screening assessment of reasonable worst-case inhalation impacts indicates a maximum acute HQ of 0.6.

We are not finalizing the proposed BTF limit for PM, as a surrogate for nonmercury HAP metals, pursuant to CAA sections 112(d)(2) and (3) for HRSG waste heat stacks in the PQBS source category for the reasons described in section IV.C.4. in this preamble, which would have achieved a reduction of the metal HAP emissions (*e.g.,* arsenic and lead) as well as a reduction in the estimated MIR due to arsenic from these units. Therefore, the overall post control MIR for this source category remains at 9-in-1 million. Additionally, the total estimated cancer incidence remains unchanged at 0.01 excess cancer cases per year, and the maximum modeled chronic noncancer

TOSHI for the source category remains unchanged at 0.1 (for respiratory effects from HCl emissions). The estimated worst-case acute exposures to emissions from the PQBS source category is a maximum acute HQ of 0.6, based on the reference exposure limit (REL) for arsenic. Considering all of the health risk information and factors discussed above, including the uncertainties discussed in the proposal preamble, the EPA is finalizing that the risks for this source category under the current NESHAP provisions are acceptable.

Under the ample margin of safety analysis, we did not change our proposal assessment that there were no cost-effective controls or measures to further reduce risks due to HAP emissions. Therefore, there are no changes for the final rule and the EPA concludes that the final rule provides an ample margin of safety to protect public health, that HAP emissions from the PQBS source category do not result in an adverse environmental effect, and that it is not necessary to set a more stringent standard to prevent an adverse environmental effect, taking into consideration costs, energy, safety, and other relevant factors.

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

We received a few comments on the risk review that offered other data and procedures to use rather than the EPA's protocol for risk assessment as well as comments on the risk to minority populations. The key comments on the risk review are summarized in this section along with the EPA's responses to the comments. Other comments received on the risk review are summarized along with the EPA's responses in the *Response to Comment* [14] document, and which is located in the dockets to the coke ovens rules.

Comment: A commenter stated that they believe the EPA does not consider the disproportionate exposure and resulting health impacts for African Americans and people living below the poverty level to ensure an "ample margin of safety" to protect public health. The commenter requested that the EPA reduce the health risks and advance environmental justice for this disproportionate exposure by setting standards to ensure an "ample margin of safety to protect public health." The commenter asserted that the EPA's own demographic analysis reveals that African Americans and people living below the poverty level experience a higher level of exposure to toxic air pollution, and consequently greater health impacts, compared to their representation in the national population. This exposure, combined with other types of toxic exposure in their neighborhoods, contributes to cumulative health risks. The commenter stated that the EPA's proposal does not include any changes to mitigate these health risks or address the environmental justice implications of this disproportionate exposure. The commenter contended that this conclusion is unlawful and arbitrary and runs contrary to the Biden Administration's commitment to advancing environmental justice.

Response: The EPA is directed by Executive Order, to the greatest extent practicable and permitted by law, to make environmental justice part of its mission by identifying and addressing, as appropriate, disproportionate and adverse human health or environmental effects of its programs, policies, and activities on communities with environmental justice concerns. The EPA's environmental justice policies promote justice, including access to health impact data, by providing information on the types of environmental justice harms and risks that are prevalent in communities with environmental justice concerns. No such policies mandate consideration of any specific factors or particular outcomes from an action, but they direct that environmental justice analysis be performed as part of regulatory impact analysis, as appropriate, so that the public can have this information. The environmental justice analysis is presented for the purpose of providing the public with as full as possible an understanding of the potential impacts of this final action. The EPA notes that analysis of such impacts is distinct from the determinations finalized in this action under CAA section 112, which are based solely on the statutory factors the EPA is required to consider. The residual risk estimated for the PQBS source category, with a cancer MIR of 9-in-1 million and where 2,600 people are estimated to have a cancer risk greater than 1-in-1 million (*i.e.,* risk from 1-in-1 million up to 9-in-1 million) is considered acceptable for all populations. Also, as noted previously in this preamble, we conclude that the PQBS NESHAP provides an ample margin of safety to protect public health.

Comment: A commenter requested that the EPA include a risk review for LAER track ovens in this rulemaking. The commenter contended the EPA did not perform the required risk review in 2020 for the COB, subpart L, LAER track coke ovens. The EPA mentions in the *Technology Review Memorandum* that the LAER track RTR was to be completed by 2020, however, the commenter indicates that it was not. The Fall 2022 Regulatory Agenda contemplated a risk review for LAER track coke ovens. However, the risk review for LAER track coke ovens, which includes eight of the nine ByP facilities, is not included in this rulemaking. The commenter stated that the EPA has not delivered on its public commitments to review risks for LAER track ovens, which include almost all facilities with co-located CBRPs.

Response: The EPA was not able to complete a risk review for LAER track sources in time for the court-ordered final rule for the Coke PQBS RTR and Technology Review of the COB NESHAP. The EPA will undertake the LAER track risk review rulemaking as we plan future activities in the steel sector.

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

We considered all of the health risk information and factors due to emissions from PQBS source category as well as the uncertainties in the risk assessment and have determined that the risks for this source category under the current PQBS NESHAP provisions are acceptable because the cancer MIR of 9-in-1 million is well below the presumptive level of acceptability (*i.e.,* 100-in-1 million) and because we did not identify any significant noncancer risks from the source category.

Under the ample margin of safety analysis, we again considered all of the health factors evaluated in the acceptability determination and evaluated the cost and feasibility of available control technologies and other measures that could be applied to further reduce risk. We also considered whether, taking into consideration costs, energy, safety, and other relevant factors, additional standards are required to prevent an adverse environmental effect. We determined that no additional standards are required to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect.

[14] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

B. Technology Review for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries Source Categories

1. What did we propose pursuant to CAA section 112(d)(6) for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks source category?

a. MACT Limits

To fulfill the requirements of the *LEAN* decision,[15] we proposed 17 new MACT limits [16] for unregulated HAP and processes pursuant to CAA sections 112(d)(2)/(3) based on available test data. These MACT limits along with a summary of comments and responses, changes made for the final rule, and the rationale for the final standards (*i.e.,* MACT limits) are provided in section IV.C. of this preamble.

b. Opacity Limit for HNR B/W Stacks

We proposed a 10 percent opacity limit for HNR B/W stacks during charging to be measured daily to limit the PM emissions from these sources.

c. Other Aspects of the CAA Section 112(d)(6) Technology Review for the PQBS Source Category (Subpart CCCCC)

As explained in the August 2023 proposed rule preamble, under the technology review for the PQBS NESHAP pursuant to CAA section 112(d)(6), the EPA did not identify any other cost-effective options to reduce emissions from currently regulated sources under the PQBS NESHAP apart from those requirements discussed in IV.B.1.a. and IV.B.1.b. of this section. Therefore, the EPA did not propose any other changes to the PQBS NESHAP pursuant to CAA section 112(d)(6). However, the EPA solicited comments regarding whether a 1-hour opacity standard would identify short-term periods of high opacity that are not identified from the current 24-hour standard of 15 percent opacity; and whether excessive COE are emitted from ovens after being pushed and before they are charged again (*i.e.,* ''soaking emissions'') despite work practice standards currently applicable to these emisions.

2. How did the technology review change for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks NESHAP source category?

As described in section IV.C. of this preamble, we are finalizing 17 [17] new MACT floor emissions limits pursuant to CAA sections 112(d)(2)/(3) based on available test data for previously unregulated HAP, as identified in the August 2023 proposal (see section IV.C. for details). However, some of the limits changed in the final rule to reflect additional data submitted by coke oven facilities since the limits were developed for the proposal as well as comments received to standardize limits which are in units of grains per dry standard cubic feet (gr/dscf) to 10 percent oxygen. The revised MACT limits include those for: (1) pushing for AG, HCN, and PAH; (2) battery stacks for AG, HCN, Hg, and PM to standardize to 10 percent oxygen; (3) HNR main stacks for AG, Hg, PAH, and PM (as a surrogate for non-Hg metal HAP), and to standardize all limits to 10 percent oxygen; and (4) HNR B/W stacks for Hg and PM, and to standardize all limits to 10 percent oxygen.

The EPA also is finalizing a MACT floor work practice standard based on ''good combustion,'' pursuant to CAA section 112(h), that addresses the previously unregulated organic HAP of D/F, PAH, and VOHAP from battery stacks. Details regarding the final MACT standards are described in section IV.C. of this preamble.

In addition, the EPA is finalizing surrogate determinations to address the additional unregulated HAP of D/F, formaldehyde, and VOHAP from pushing; formaldehyde from HNR main stacks; and VOHAP from HNR B/W stacks. Details regarding these surrogates are described in section IV.C. of this preamble.

We also are finalizing a requirement for 20 percent HNR B/W stack opacity to reflect current permit requirements that is to be determined weekly for HNR waste heat stacks, and weekly for HRSG bypass stacks when operating longer than an hour in any week.

We are not setting 1-hour opacity standards for battery stacks in the final rule. We did not propose a 1-hour battery stack limit for comment and because there was a wide variation in the data collected from facilities for 1-hour opacity from battery stacks, without additional information we were not able to determine a 1-hour limit that considered all the factors which may influence short-term opacity and the impacts the limit might have on facilities not meeting a new 1-hour standard. Although we received three comments in favor of a 1-hour standard, one against, and one comment recommending a work practice to be triggered by an (unspecified) 1-hour opacity value, we are not setting a 1-hour battery stack opacity standard at this time as part of the Technology Review in this rulemaking as a development in practices, processes, and control technologies. We also are not including additional work practices or new control device requirements for soaking emissions in the final rule as part of the technology review. The short-term nature of soaking fugitives emissions would prevent accurate measurement of a limit for opacity, and the addition of a second collecting duct that routes standpipe COE exhaust to a control device would present safety hazards to workers and could prove to be impractical. We received one comment in favor of setting soaking standards and two comments against. See the *Response to Comment* [18] document for this rulemaking to see details of the comments received on both of these sources and the EPA responses.

3. What did we propose pursuant to CAA section 112(d)(6) for the NESHAP for Coke Oven Batteries source category?

a. Fenceline Monitoring

We proposed a fenceline monitoring work practice standard (for benzene, as a surrogate for COE). Fenceline monitoring refers to the placement of monitors along the perimeter of a facility to measure fugitive pollutant concentrations. The proposed fenceline monitoring work practice standard would have required owners and operators to monitor for benzene and conduct RCACA upon exceeding an ''action level'' concentration of 3 $\mu g/m^3$ based on the rolling 12-month average ''*delta* c'', notated as Δc, which represents the concentration difference between the highest measured concentration and lowest measured concentration for a set of samples in one sampling period. The sampling period

[15] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

[16] Note, we erroneously reported that there were 15 new MACT floor limits in the August 2023 proposal preamble. This was a typographic error. The proposed rule included 17 new MACT floor limits and 2 BTF limits; the BTF limits are not included in the final rule. However, we are adding a work practice standard in this final rule so the count of standards is now 18.

[17] Note, we erroneously reported that there were 15 new MACT floor limits in the August 2023 proposal preamble. This was a typographic error. The proposed rule included 17 new MACT floor limits and 2 BTF limits; the BTF limits are not included in the final rule. However, we are adding a work practice standard in this final rule so the count of standards is now 18.

[18] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

Δc values are averaged over 12 months to create the rolling average. We also proposed a procedure for reduced monitoring at a particular monitoring location after consistent low measurements at that monitor. More details are provided in the August 16, 2023, proposed rule preamble.

b. Lower Leak Limits for Doors, Lids, and Offtakes

Due to improvements in leak control at coke oven facilities, we proposed to lower the allowable door leak limits in the NESHAP under the technology review for the COB source category pursuant to CAA section 112(d)(6). We proposed for facilities with coke production capacity of greater than or equal to 3 million tpy of coke to lower the allowable leaking door limit from the current limit of 4 percent to 1.5 percent for tall leaking doors and from 3.3 percent to 1.0 percent for ''not tall'' leaking doors. These proposed standards would currently only apply to the U.S. Steel Clairton facility in Pennsylvania. For COB facilities that have coke production capacity less than 3 million tpy coke, we proposed an allowable leaking door limit of 3.0 percent leaking doors for all sizes of doors that is lower than the limit currently in the NESHAP of 4.0 and 3.3 percent leaking doors for tall and not tall doors, respectively.

We also proposed to lower the lid and offtake allowable leak limits in the NESHAP due to similar improvements in operation of these sources by the coke facilities. The current NESHAP includes limits of 0.4 percent leaking lids and 2.5 percent leaking offtakes; we proposed a revised limit of 0.2 percent for leaking lids and a revised offtake limit of 1.2 percent leaking offtakes.

The proposed changes to the leak limits were meant to ensure continued low emissions from doors, lids, and offtakes and reflect improvements in performance of the facilities to minimize leaks. We estimated that there would be no reductions in actual emissions and there would be no control costs, but the lower limits would reduce the allowable emissions. More details are provided in the August 16, 2023, proposed rule preamble.

c. Zero Allowable Leaks From HNR Oven Doors, and Concurrent Oven or Common Tunnel Pressure Monitoring

The current NESHAP requires HNR facilities to demonstrate (with method 303) that facilities have zero leaks or demonstrate the ovens are under negative pressure. We proposed to revise the COB NESHAP for new and existing HNR doors (40 CFR 63.303(a)(1) and (b)(1)) to require zero leaks from oven doors at HNR coke batteries, as determined by EPA Method 303A, which relies on observing VE emanating from the ovens; and monitoring pressure both in the ovens and the common tunnel, instead of choosing one or the other points to measure pressure and instead of choosing either 0 oven leaks or pressure monitoring, as the current rule allows. We also proposed to add the requirement to measure both pressure in the ovens and common tunnels during the critical periods in the entire oven cycle to include, at minimum, during pushing, coking, and charging (but not necessarily continuously throughout the oven cycle).

d. Revised Emissions Equation for Emissions From Leaking Doors

We proposed a revised version of the equation than that historically had been used to estimate COE from leaking oven doors. The proposed revised equation provided more accurate estimates of COE from doors that reflected operation of any coke facility, not just the facility upon which the equation was derived, and includes facilities where advancements in preventing and reducing door leaks have occurred since 1981, which is when the equation was first developed. The proposed revised equation was as follows:

$$\text{COE-doors (lb/hr)} = ND \times (PLD_{yard}/100) \times (0.04 \text{ lb/hr}) + ND \times (PLD_{yard} \times 0.94_{bench\text{-}only/yard})/100) \times (0.023 \text{ lb/hr})$$

Where:

ND = number of doors
PLD = percent leaking doors
PLDbench = percent leaking doors from bench
PLDyard = percent leaking doors from yard

A summary of the proposed revised equation and the rationale for its development are provided in the August 16, 2023, preamble. A more detailed explanation can be found in the memorandum prepared for the proposal, *Revised Equation to Estimate Coke Oven Emissions from Oven Doors,*[19] located in the docket for this rule.

e. Opacity From HNR B/W Stacks

We proposed a new opacity limit of 10 percent on the HNR facilities' HNR B/W stacks and to require a daily observation of all bypass or waste heat stacks during charging to determine if VE are present.

[19] *Revised Equation to Estimate Coke Oven Emissions from Oven Doors.* D.L. Jones and K. McGinn. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. August 2021. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

4. How did the technology review change for the NESHAP for the Coke Oven Batteries source categories?

a. Fenceline Monitoring

As a result of comments, we revised the modeling procedures used to determine the fenceline action level by including additional offsite receptors in our modeling to more appropriately assess the maximum concentrations from irregular-shaped facility properties. Due to the unique layout of the coke oven sources and the elongated shape of their fencelines, the spatial resolution of the default receptor grid was not sufficient to accurately estimate the maximum ambient concentration. This change in procedures resulted in a change to the action level from 3 μg/m^3 to 7 μg/m^3 of benzene. In addition, in the final rule, we are only requiring fenceline monitoring and corrective action at ByP coke oven facilities and not at HNR facilities because the NESHAP will have sufficient monitoring of VE to ensure minimal HNR fugitive emissions and the operation of the coke ovens at HNR facilities is under negative pressure, *i.e.,* outside air and oven exhaust is pulled through ovens and into the common tunnels by suction, which effectively prevents excess fugitive emissions from these sources. Furthermore, data received from CAA section 114 information request from one HNR facility showed very low benzene at the fenceline (a maximum individual sample concentration of 0.7 μg/m^3 and an average Δc of 0.1 μg/m^3), which demonstrates the low fenceline impact from these sources. Lastly, for those facilities subject to fenceline monitoring, the EPA is providing the opportunity to develop site-specific monitoring plans (SSMP) and, when approved by the EPA, to monitor and correct for the contribution of benzene emissions from co-located sources not subject to a regulation codified in 40 CFR part 63 (such as the CBRP) and offsite emissions sources to the measured fenceline concentration. The SSMP must include: (1) identification of the near-field sources whose emissions, if approved, will be subtracted from the monitor concentrations, *i.e.,* offsite and co-located sources not subject to a regulation codified in 40 CFR part 63; (2) the impacted monitoring location(s) and the near-field source(s) that impact them; (3) the detailed data reduction criteria and calculations; (4) the details of the real-time sampling technique(s) being employed and how meteorological conditions will be measured; and (5) explanation of how monitoring data are handled during adverse conditions.

b. Lower Leak Limits for Doors, Lids, and Offtakes

We revised the proposed leak limits for doors, lids, and offtakes based on information and data obtained from a number of ByP facilities in late 2023 on the variability of leaks in daily rolling 30-day averages basis, including Cleveland Cliffs' Warren, Ohio, and Burns Harbor, Indiana, facilities, EES Coke in Michigan, and U.S. Steel Clairton in Pennsylvania; and based on additional information and data provided by email from David Alor (of COETF) on February 5, 2024 and March 22, 2024 regarding the maximum 30-day rolling averages across facilities for the period 2018–2023. These data are available in the docket for this action.

Using the available data, we compared the maximum 30-day rolling averages with the maximum annual averages and developed adjustment factors to account for variability. Then, we multiplied the adjustment factors by the maximum annual average for each door type to obtain the revised leak limits. In this final rule, we are promulgating the revised leak limits shown in table 4 and in the revised memorandum prepared for the final rule, *Technology Review for the Coke Ovens: Pushing, Quenching, and Battery Stack and Coke Oven Batteries Source Categories-Final Rule,*[20] hereafter referred to as the *Technology Review Memorandum—Final Rule.* These six revised leak limits (shown in table 4) are higher than all the maximum 30-day averages in our dataset (available in docket). Therefore, we expect facilities will be able to comply with these limits without the need for any new controls or operating costs.

TABLE 4—REVISED LEAK LIMITS FOR DOORS, LIDS, AND OFFTAKES TO ACCOUNT FOR VARIABILITY

Source, battery type, No. facilities and batteries	Current NESHAP limit	Proposed limit	Maximum annual average 2022/2023	Adjustment factor for variability	Revised leak limits for final rule	Higher or lower than proposed limit
Doors—Higher Capacity (> or = 3M ton/year), Tall Batteries [a]						
1 facility, 2 batteries	4.0%	1.5%	0.54%	4.6X	2.5%	higher.
Doors—Higher Capacity (> or = 3M ton/year), Not Tall Batteries [a]						
1 facility, 8 batteries	3.3%	1.0%	0.39%	4.4X	1.7%	higher.
Doors—Lower Capacity (< 3M ton/year), Tall Batteries						
2 facilities 3 batteries	4.0%	3.0%	2.9% [b]	1.3X	3.8%	higher.
Doors—Lower Capacity (< 3M ton/year), Not Tall Batteries						
6 facilities, 14 batteries	3.3%	3.0%	2.4%	1.3X	3.2%	higher.
Offtakes—6 facilities	2.5%	1.2%	1.3%	1.6X	2.1%	higher.
Lids—6 facilities	0.4%	0.2%	0.087%	3.7X	0.32%	higher.

[a] Tall = doors are equal to or greater than 6 meters (20 ft) in height. "Not tall" doors are doors that are not tall.
[b] This value is the average for 10 months of 2023.

c. Zero Allowable Leaks From HNR Oven Doors and Concurrent Oven or Common Tunnel Pressure Monitoring

We are not requiring pressure monitoring in both common tunnels and ovens in the final rule but instead are allowing a choice between the two as in the current rule because we did not receive any comments in support of requiring both and we received comments pointing out the expense and safety hazards of oven pressure monitoring. We are requiring the pressure monitoring in either ovens or tunnels to be performed at minimum during pushing, charging, and coking. For the final rule, we also are requiring zero leaks from HNR oven doors with daily leak testing, as determined by EPA Method 303A, along with pressure monitoring in either the common tunnels or the ovens during pushing, charging, and coking.

d. Revised Emissions Equation for Emissions From Leaking Doors

We revised the proposed equation to estimate COE emissions from leaking doors based on VE test data from two facilities that the EPA received in 2022 and combined these data with VE test results from 1981, which was when the original equation first was developed. The 2022 VE testing was performed at Cleveland Cliffs' Burns Harbor and U.S. Steel's Clairton facilities and included simultaneous yard and bench VE tests at the coal-side and coke-side of two batteries at each facility. The 1981 data also had been collected at U.S. Steel Clairton. In addition, we received a comment that the equation did not account for the case where no VE from oven doors is observed from the yard but VE from ovens is observed from the bench. A linear regression analysis of the combined 1981 and 2022 data provided a revised equation with an intercept that is only dependent on the number of doors (ND) and not dependent on yard observations and provides an estimate of emissions when yard VE is zero. The final equation is as follows:

$$\text{COE-doors (lb/hr)} = ND \times (PLD_{yard}/100) \times (0.04 \text{ lb/hr}) + ND \times (PLD_{yard}/100 \times 1.5 * PLD_{(bench\text{-}only\text{-}to\text{-}yard)} \times (0.023 \text{ lb/hr})) + 0.7/100 * ND \times (0.023 \text{ lb/hr}),$$

Where:

ND = number of doors
PLD = percent leaking doors

e. Opacity From HNR B/W Stacks

For the final rule, we revised the proposed 10 percent opacity limit for HNR B/W stacks during charging with daily testing to 20 percent and moved the requirement from the COB rule (subpart L) to the Coke PQBS rule (subpart CCCCC). We also changed the proposed daily testing requirement to weekly. For HNR facilities without continuous bypass, weekly opacity testing is only required if the bypass event continues for more than an hour.

[20] *Technology Review for the Coke Ovens: Pushing, Quenching, and Battery Stack and Coke Oven Batteries Source Categories—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085–0873 and EPA–HQ–OAR–2003–0051–0682.

For HNR facilities with continuous bypass, weekly testing is required.

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

The key comments on the proposed results of the technology review are summarized in this section along with the EPA's responses to the comments. Other comments received on the technology review not included here are summarized along with the EPA's responses in the *Response to Comment*[21] document, which is located in the dockets to the rules.

a. Fenceline Monitoring

We received many comments on fenceline monitoring with comments both in favor of the proposed requirement and comments that were opposed to the requirements or requested significant changes.

Comment: A commenter asserted the proposed rule would exceed the EPA's authority under CAA section 112 because it would impose monitoring and a work practice standard on the CBRP, which is not a source category listed pursuant to CAA section 112(c). The commenter set forth the reasons why they believe the EPA's authority to promulgate ''emission standards'' under CAA sections 112(d) and (f) are limited to source categories listed pursuant to CAA section 112(c). The commenter stated that if fenceline monitoring is required in the final rule, sampling stations should be located so as to monitor emissions only from coke oven batteries and no other sources, and the rule should provide that both offsite and onsite non-source category sources should be subtracted out in determining compliance with any corrective action level. The commenter added that such an exercise would be complicated by the fact that benzene in COE from coke oven batteries is entrained by the hot, buoyant vertical plume rise. The EPA would also need to consider the feasibility of designing and implementing such a program, given the close proximity and size of the co-located CBRP and nearby offsite sources of benzene emissions. At U.S. Steel Clairton, for example, the CBRP is located in between the coke batteries, so isolating the impacts from the category-specific sources would be difficult, and perhaps impossible.

Response: As explained in the **Federal Register** document announcing the Petroleum Refineries NESHAP final rule (80 FR 75178) and again in the Hazardous Organic NESHAP final rule (known as the ''HON''), published on May 16, 2024 (89 FR 42932), the EPA concludes that CAA section 112(d)(6) provides the EPA with the authority to require fenceline monitoring requirements in NESHAPs. Comments on the proposal did not take issue with this fundamental authority, but rather argued only that the EPA does not have the authority to apply the work practice associated with fenceline monitoring to a non-listed source category, in this case the CBRP.

The fenceline monitoring provisions in the final rule can be thought of as consisting of two elements, one being measurement and reporting of fenceline concentrations, the other being compliance with the RCACA, the latter being the work practice element of the rule. To the extent the commenters assert that the EPA's authority is lacking in regard to the requirements to measure and report fenceline concentrations resulting from emissions from CBRPs, the EPA disagrees. By its own terms, the commenter's argument regarding the limits of CAA section 112 authority to non-listed source categories pertains only to ''emission standards,'' which as defined in CAA section 302(k) are requirements that ''limit[ ] the quantity, rate, or concentration of emissions . . .'' The commenter's own reasoning, therefore, does not suggest that the EPA may not require monitoring of non-listed CBRPs.

In any case, CAA section 114 independently provides ample authority to require monitoring of CBRPs. Relevant to the fenceline monitoring provisions of this rule, CAA section 114 gives the EPA authority to require the owner or operator of a source of emissions to monitor emissions, including by periodic sampling, either for the purpose of assisting in the development of a CAA section 112 standard, or to determine compliance with an existing CAA section 112 standard. The fenceline monitoring provisions in the final rule will serve both purposes. It will inform the EPA's consideration of whether and how to further regulate emissions from CBRP. It may also provide information relevant to determining compliance with 40 CFR part 61, subpart L applicable to CBRP. Fenceline monitoring will further these goals notwithstanding that the final rule does not require corrective action at CBRP, and also notwithstanding that coke oven facilities may seek approval of an SSMP that may reduce the likelihood of needing to perform a root cause analysis at the CBRP.

Regarding requirements pertaining to the RCACA work practice element of the rule, 40 CFR 63.314(d)(3) of the final rule provides that corrective action will not be required at sources not subject to a regulation codified in part 63. At present, CBRP are not subject to a regulation codified in part 63, and as a consequence there is no requirement to conduct corrective action at CBRP until a part 63 regulation is promulgated for that source category.

The final rule also provides an opportunity for facilities to develop an SSMP, subject to review and approval by the EPA, allowing a facility to account for the contribution to measured fenceline concentrations due to benzene emissions from offsite or co-located sources not subject to a regulation codified in 40 CFR part 63 (such as CBRP). The owner/operator may choose to develop a technically-sound monitoring plan to isolate and distinguish emissions from CBRP from other emission sources. The SSMP may be used to correct the measured concentration at impacted sample locations, thereby reducing the number of exceedances of the action level caused by the CBRP, and also reducing the number of root cause investigations pointing to the CBRP. The EPA recognizes that, similar to refineries where the correction for onsite sources is also allowed, development of a monitoring program to implement the SSMP for onsite sources is expected to be complicated. We have also extended the time for the EPA to review the SSMP to 120 days from 90 days to account for the increased complexity of SSMP as a result of the inclusion of these onsite sources. Real-time monitoring techniques, such as open-path monitoring and sensor networks, could potentially be useful to characterize emissions from such proximate sources. Further, if information from a root cause investigation demonstrates that a primary or other contributing cause of an exceedance of the corrective action level are due to emissions from a CBRP, no corrective action would be required to address those causes at the non-listed CBRP operations beyond those that may be required under current regulations (40 CFR part 61, subpart L, or other applicable regulatory requirements). For example, if during the root cause investigation the primary or other contributing cause(s) is traced to a leak, as defined by 40 CFR part 61 subpart L, in the connections or seals of a control system, that leak would be required to

[21] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

be repaired within 15 days as stipulated in 40 CFR 61.132(b)(3), but not as a result of the fenceline monitoring corrective action requirements. Primary and other contributing cause(s) of exceedances of the action level that are located within the facility grounds, excepting those sources not subject to a regulation codified in 40 CFR part 63, would need to be addressed. Sources that contribute to the fenceline benzene concentrations above the action level that are not subject to a regulation codified in 40 CFR part 63 may be accounted for through the SSMP.

Comment: A commenter opposed to the proposed fenceline monitoring provisions stated that they believe the proposed benzene fenceline monitoring program ''targets'' co-located CBRP and not benzene in COE from the source category coke batteries. The commenter asserts that benzene in COE from the source category coke batteries is dispersed at 90 to 200 meters above ground level due to the heat flux and vertical momentum rise (buoyancy), while benzene from CBRP operations generally remain near ground level and would more likely be measured by fenceline monitors.[22]

Response: To the extent the commenter is asserting that fenceline monitoring is not an effective means of measuring coke oven emissions, the EPA disagrees. Benzene comprises a significant portion of the COE emitted from coke oven doors, which are fugitive emissions that are released at heights considerably lower than the 90 to 200 meters mentioned by the commenter. Likewise, internal facility monitoring conducted in close proximity to the coke oven batteries at four byproduct facilities, as part of the 2022 CAA section 114 requests, identified benzene as the predominant volatile organic compound (VOC) (which includes benzene) measured in the area of the coke oven batteries and at elevated average concentrations ranging from approximately 11 $\mu g/m^3$ to 340 $\mu g/m^3$. Therefore, we maintain the position that benzene is a good surrogate for COE and that fenceline monitoring is appropriate for this type of fugitive emissions source. We also identified benzene as the predominant VOC measured in close proximity to the CBRPs at equivalent or greater concentration than was measured in close proximity to the coke oven batteries. This underscores the potential impact of these non-regulated sources such as CBRPs on the fenceline concentration at some facilities. We have revised the fenceline monitoring requirements in this final rule to provide an opportunity for a facility to develop an SSMP to determine and account for the benzene emissions from onsite sources (such as CBRPs) not currently subject to a regulation codified in 40 CFR part 63 in the calculation of Δc.

Comment: A commenter requested that the proposed fenceline monitoring requirements for HNR facilities be withdrawn and not be included in the final rule. The commenter contended that fenceline monitoring is not a new trend in facility procedures or generally in use at HNR facilities. The commenter stated that because ByP ovens operate under positive pressure, small openings or cracks in ByP ovens allow raw coke oven gas and HAPs to leak into the atmosphere. In contrast, the commenter indicated that their facility's (SunCoke's) HNR ovens operate under negative pressure and release the heat of combustion within the oven system. The commenter stated that the EPA previously acknowledged that operating the coke ovens under negative pressure virtually eliminates the risk of leakage of COE through doors or other potential leakage points. See the EPA document, ''*National Emissions Standards for Coke Oven Batteries: Background Information for Final Amendments,*'' at 21 (Mar. 31, 2005; Docket ID no. EPA–HQ–OAR–2003–0051–0232).

The commenter continued that fugitive HAP emissions monitoring conducted at one of SunCoke's plants for ten years demonstrates that there is no impact on ambient HAP levels, that any emissions are below risk-based screening levels, and that the state agency agreed with this determination. The commenter contended in determining whether to adopt fenceline monitoring requirements in the current rulemaking, the EPA selected five coke facilities—four ByP facilities and one HNR facility. The commenter asserted that the proposal inappropriately grouped ByP and HNR facilities together as subject to fenceline monitoring despite significant differences in potential for fugitive emissions.

One commenter contended the predicted maximum benzene concentrations for ByP plants range from 0.3 to 3 $\mu g/m^3$, while the predicted maximum benzene concentrations for HNR plants range from 0.00005 to 0.0003 $\mu g/m^3$. Sampling at HNR plants is predicted to yield results at about twice the MDL for the method or lower. The commenter stated that only a major malfunction at a HNR plant would ever trigger performance of a root cause analysis. The commenter stated that such an increase in emissions would be noticed by plant personnel and addressed long before the 45 days after the end of a sampling period allowed for laboratory analysis and Δc calculation. The commenter indicated that an exceedance of the proposed subpart L limits at HNR batteries, monitored by EPA Method 303A, would alert plant personnel of the need to address excess fugitive emissions in a timely manner.

Another commenter contended the EPA did not remark upon the discrepancy of benzene concentrations between ByP and HNR facilities; the benzene fenceline concentrations detected at ByP facilities were 90 to 4,000 percent higher than the levels detected at SunCoke's Haverhill facility in Franklin Furnace, Ohio. The absence of any necessity for fenceline monitoring at HNR facilities was demonstrated by the company's Haverhill facility, which performed almost 10 years of monitoring for PAH and VOCs as required by the facility's Title V operating permit. The permit called for sampling at three ambient monitoring locations near the plant (one upwind, one downwind, and one adjacent to the entry gate to the plant). The sampling was initiated when the plant was being built in late 2004, continued as the plant became operational in mid-2005, and continued until the Ohio EPA terminated the requirements for monitoring (in 2013 for PAH and in 2014 for VOC) because the HAP monitoring data demonstrated that Haverhill had no impact on ambient HAP levels and emissions were below risk-based screening levels. (Commenter cites ''Letter from Ohio EPA to Haverhill Coke Company, July 14, 2014''.)

Response: After considering these public comments and other relevant information, the EPA has decided to not finalize the requirement to require fenceline monitoring and RCACA at HNR facilities because the HNR coke ovens operate under negative pressure, *i.e.,* under suction, which causes any leaks to consist of outside air moving into the ovens rather than coke oven exhaust leaking out, and, as a result, have negligible fugitive benzene emissions. Fenceline monitoring data collected through the 2022 CAA section 114 request, which can be found in the memorandum *Fugitive Monitoring at Coke Oven Facilities,*[23] showed an HNR

[22] See email from D. Ailor, ACCCI/COETF, to D.L. Jones, EPA OAQPS, (Mar. 26, 2021, available in the docket for this rule *https://www.regulations.gov/document/EPA-HQ-OAR-2002-0085-0605.*

[23] *Fugitive Monitoring at Coke Oven Facilities.* D.L. Jones, K. Boaggio, K. McGinn, and N. Shappley, U.S. Environmental Protection Agency; and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. July 1, 2023. Docket

facility's fenceline benzene concentrations to be very low (a maximum individual sample concentration of 0.7 μg/m³ and an average Δc of 0.1 μg/m³ of benzene) during the 3 months of fenceline monitoring, especially as compared to the ByP fenceline average delta Δc values at four facilities that ranged from 3 μg/m³ to 33 μg/m³. Additionally, the total estimated benzene emissions from the 5 HNR facilities are quite low, estimated at 2.3 tpy year, which equates to an average of 0.5 tpy benzene per facility, on average, based on all sources at the facilities, both category and noncategory. This compares to ByP facilities that are estimated to emit 25 tpy, which equates to 3.6 tpy per facility, on average, also based on all sources at the facilities, both category and noncategory.

Comment: A commenter stated that coke plants cover large areas with substantial fenceline/perimeters where some portions when located close to communities may be more critical, and therefore, the SSMP should address certain specific information. The commenter said that the EPA should require plants to develop a SSMP that at a minimum addresses the following items:

- Physical plant boundary including each fenceline "reach" on a properly-drawn scaled map, showing all coke-making and related operations as well as the land uses beyond the plant, adjacent to each reach of the fenceline.
- Types of pollutants emitted by the plant—for which the starting point is the collection of 2016 and 2022 (ICR) data, as supplemented by ongoing testing. This will include a range of VOCs and HAPs, PAHs, $PM_{2.5}$ (as a surrogate for nonmercury metals), Hg, AG, etc.
- Sampling approach to initially measure all potential HAP emissions at each fenceline reach, and especially for those reaches where there is potential for community exposure if pollutants escape the plant boundary—at least for a period of 1 year.
- Potential reduction of the list of measured HAP that are potentially emitted at each fenceline reach, as needed, based on the first year of data collection.
- Proper frequency of sampling at the critical fenceline reaches. For example, if benzene or naphthalene are identified as the potential pollutants for adjacent community exposures, the plan should include continuous measurements using open path methods as opposed to periodic sorbent tube collection. Continuous measurements will provide the data on short-term variability of such impacts as opposed to a 2-week or similar average using sorbent tubes. Refineries in California have successfully implemented such continuous fenceline monitoring for many years and the EPA can readily access how these have been implemented.
- Collection of continuous meteorological data in order to assist in data evaluation—*i.e.,* to determine if the coke plant or some other source may have been the likely cause of a spike in emissions. This would eliminate the need to address upwind corrections since, depending on the meteorological data, the upwind fenceline can always be readily identified, making this correction defensible and simple.

Another commenter asked how the monitoring requirements that support the exclusion of benzene from offsite sources can be made more transparent and enforceable, particularly if the SSMP is the method for excluding benzene from offsite sources. The commenter requested that the EPA revise the proposed rule text for fenceline monitoring (40 CFR 63.314(i)(1)(ii)) accordingly to make this requirement more transparent and enforceable. The commenter suggested the following text as a replacement: ". . . . . identify the location of the additional monitoring stations that must be used to determine the uniform background concentration and the near-field source concentration contribution. Modeling may not be used in lieu of monitoring to identify near-field sources that an SSMP applicant alleges contribute significantly to fenceline benzene levels at the applicant's facility."

Response: The EPA disagrees with the commenter that SSMP are necessary for every facility. In the proposed rule, the EPA stipulated that an EPA-approved SSMP is required if a facility wants to account for near-field offsite upwind sources in their determination of Δc. In the final rule, this requirement is extended to accounting for onsite sources not subject to a regulation codified in 40 CFR part 63. The EPA disagrees that the additional elements suggested by the commenter are necessary for the correct implementation of fenceline monitoring. The siting criteria of EPA Method 325A are specified based on the size and shape of facility, and the location of monitors are detailed in each quarterly report. It is unclear from the comment what is meant by fenceline "reach." Land uses outside of the fenceline of the facility are not necessarily known by the facility, since they are outside the control of the facility. Benzene is being used as a surrogate for COE, which encompasses many different HAP and of which benzene is the dominant HAP as indicated by fenceline monitoring and the interior facility monitoring conducted through the CAA section 114 information collection request. Continuous meteorological data is already required to be collected to correct the measured concentration to standard temperature and pressure and depending on the locality, it can be used in locating potential sources of any emissions. When an SSMP has been developed, the meteorological data can be used to account for up-wind or onsite benzene contributions. To achieve this, the meteorological data must be collected at an onsite location when an SSMP is implemented.

The EPA acknowledges the feedback from the commenter about making the language for near field source correction of upwind contributions more transparent and enforceable in the final rule. The rule requires an owner or operator to submit a SSMP to the EPA for review and approval when near-field offsite upwind sources or certain onsite sources are being accounted for. The EPA will approve or disapprove the SSMP in writing within 120 days of receiving a complete SSMP submittal. The EPA agrees with the commenter that more specificity should be provided in the SSMP and has chosen to revise the final rule to include more prescriptive language to define the requirements of the SSMP and to harmonize the approach for this rule with other NESHAPs.

Comment: Commenters stated that the EPA needs to include a more comprehensive suite of pollutants for fenceline monitoring, not just one surrogate parameter. The commenters requested that the EPA expand the initial set of target analytes.

One commenter stated the proposed rule does not include hydrogen sulfide fenceline monitoring. The commenter argued that the EPA has failed to account for its own data about how damaging these facilities are. The commenter stated that in 2018, the EPA produced a "Geospatial Monitoring of Air Pollution Report" (October 31, 2018) after conducting some fenceline monitoring over 6 days along one side of Middletown Works (which then had an operating coke plant). The commenter indicated that the EPA concluded "These mobile and stationary data indicate a potential acute human health hazard." The commenter asserted that these hydrogen sulfide results show

ID Nos. EPA–HQ–OAR–2002–0085–0880 and EPA–HQ–OAR–2003–0051–0735.

the need for far more comprehensive fenceline monitoring.

Another commenter stated that benzene is an adequate surrogate for some HAP, but not for inorganic compounds, and indicated that the EPA should require fenceline monitoring of arsenic. This commenter requested that the EPA add a requirement for fenceline monitoring of arsenic. The commenter contended that while benzene seems to be a good indicator for hydrocarbons such as BTEX or PAH, it is not clear that it is also a surrogate for inorganic pollutants. The commenter stated that the U.S. Geological survey examined arsenic levels in coal, finding a broad range of mean concentrations from 1.5 ppm to 71 ppm, depending on the source (*https://pubs.usgs.gov/fs/2005/3152/fs2005-3152.pdf*). The commenter stated that wide differences in arsenic content were also found in a review article by Yudovich and Ketris (*https://www.sciencedirect.com/science/article/pii/S0166516204001673*). The commenter stated such differences in arsenic coal content are reflected in emission levels: A study of trace metal elements released during coal coking found differences of 600 percent in arsenic levels between different facilities, stating ''This is obvious owing to the different levels of trace elements contents in coals, depending on the coal type, origin, basin, and other factors.'' (Konieczynski J, Zajusz-Zubek E, Jablonska M. *The release of trace elements in the process of coal coking.* (*Scientific World Journal.* 2012;2012:294927. Doi: 10.1100/2012/294927). While this study refers to different facilities, such variability is expected to apply to different times within a given facility as well.

The commenter stated that the EPA identified arsenic as the leading cause for cancer and chronic health risks from COE but benzene has not been proven to be an adequate surrogate for arsenic levels. According to the commenter, adding a fenceline monitoring requirement for arsenic would be feasible and simple to implement. The commenter said that the EPA has a number of methods to determine metal concentration in ambient air that could be used for the fenceline monitoring (see *https://www.epa.gov/amtic/compendium-methods-determination-inorganic-compounds-ambient-air*). The commenter said there are a number of EPA-certified ambient air monitoring methods for metals, including arsenic, that could easily be installed and sampled on the same deployment and retrieval data collection schedule as the fenceline benzene monitors.

Response: The EPA required some facilities in the industry to conduct comprehensive fenceline monitoring as part our 2022 CAA section 114 request, which included measurement of a suite of organic HAPs. The results of this monitoring can be found in the memorandum *Fugitive Monitoring at Coke Oven Facilities*[24] The monitoring identified benzene as the most common organic HAP measured above detection level and the organic HAP with the highest concentration, making it an appropriate surrogate for fugitive emissions from coke ovens and COE. For fugitive leaks of COE, the intended use of fenceline monitoring, benzene is the chemical best suited as a surrogate for COE.

Arsenic requires a different monitoring approach with much higher costs, both for the analytical tests and for installation, and requires electricity at each sampling location. Benzene also is present in much higher concentrations in COE than arsenic; therefore, any leaking coke oven gas contains benzene and at much higher concentrations than arsenic. The EPA did not evaluate arsenic (or any other metal HAP) as part of the information requests related to fenceline monitoring. Instead, fenceline monitoring was performed at these sites to evaluate VOC/HAP emissions from fugitive sources. Although we recognize that arsenic is emitted from these facilities, the arsenic emissions are typically hot and emitted from ducted sources such as stacks at much higher elevations than the ground level of the fenceline. Therefore, we do not expect arsenic to be detected at the fenceline. The emissions from elevated, ducted sources regulated under subpart CCCCC that do not directly impact the fenceline measurements are measured at the source through periodic compliance testing required to demonstrate compliance with the MACT standards.

Lastly, hydrogen sulfide is not currently a listed HAP under CAA section 112, and so could not be considered in this rulemaking unless the EPA determined that it was a surrogate for one or more HAP emitted as fugitives from the category. We have not made such a determination.

Comment: A commenter said that the ''Δc'' calculation is not sufficient to account for offsite sources of benzene when there are significant offsite sources or when wind direction information demonstrates the impact of offsite sources on monitoring locations. The commenter requested that the EPA redesign the Δc element of the fenceline monitoring program. The commenter provided, as an example, the CAA section 114 fenceline monitoring data for the Cleveland Cliffs' Burns Harbor facility, which demonstrated that the highest benzene concentrations are associated with sources at the adjacent port facility and are not located near the coke facility.

Response: The EPA disagrees that the final rule should provide a mechanism in addition to that already incorporated in the proposed rule to take into account the impact of offsite sources. As proposed, the final rule accomplishes this not just through the Δc calculation methodology, but also through allowing the use of an SSMP. The rule states that an owner or operator may elect to submit an SSMP (for EPA review and approval), which could allow for the subtraction of upwind contributions. The final rule includes more prescriptive language to define the requirements of the SSMP. This is consistent with fenceline monitoring provisions in other NESHAPs.

Comment: Commenters stated that they believe the fenceline monitor data should be made available to the public to improve transparency. The commenters requested that the EPA provide public access to the fenceline data as it is being collected and reviewed so people can be aware of their exposure risks. A commenter requested that the fenceline data be put on a website that is easily accessible to a layperson or community member near a facility who is not aware of and has not had training on that portal. A commenter contended when action levels are exceeded, the community must be provided immediate notification of such exceedances and that reporting through the EPA's electronic reporting and data retrieval portal is not sufficient and is confusing to use. Making pollution data readily available to the public is a low-cost, efficient way to drive pollution reduction.

A commenter contended the EPA does not specify when fenceline monitoring data submitted via CEDRI will be made available to the public. The commenter said that public access to fenceline data will allow regulators to detect non-compliance earlier, and that communities would be simultaneously informed of dangerous, higher concentrations of chromium (and for lead, if the EPA includes lead in the

[24] *Fugitive Monitoring at Coke Oven Facilities.* D.L. Jones, K. Boaggio, K. McGinn, and N. Shappley, U.S. Environmental Protection Agency; and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. July 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085–0880 and EPA–HQ–OAR–2003–0051–0735.

fenceline standard, as they should) with less delay. The commenter contended that prompt public disclosure of benzene monitoring data will make the failure to collect and report such information more visible, will give regulators and communities quicker access to information about dangerous spikes in benzene levels, and will give companies a ''real time'' incentive to move quickly to clean up emission sources causing the problem.

Response: As described in the proposed rule preamble and in this preamble, the EPA is only requiring fenceline monitoring for benzene in this final rule. We decided it is not necessary or appropriate to require fenceline monitoring for lead, arsenic or any other metal HAP as part of this rulemaking. See other responses in this section for more details on this topic.

Regarding the public availability of data and monitoring locations, we are finalizing, as proposed, the requirement that the exact location of each sampling location (latitude and longitude) as well as the individual sampling results (both original results and corrected results if a monitoring location result is modified as a result of an SSMP) are included in the quarterly report at 40 CFR 63.311(j)(3) and (5). These quarterly fenceline reports will be submitted to CEDRI and subsequently be available to the public via the Web Factor Information Retrieval System (WebFIRE) (*https://www.epa.gov/electronic-reporting-air-emissions/webfire*). The fenceline monitoring data is released to WebFIRE 30 days after submittal to CEDRI to allow time for the EPA and any delegated authority to review the data prior to release. For a general discussion on the electronic reporting process, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the dockets for this action (EPA–HQ–OAR–2002–0085–0908 and EPA–HQ–OAR–2003–0051–0748).

To search for a fenceline monitoring report required by this rule, begin at the WebFIRE home page, *https://cfpub.epa.gov/webfire,* and select ''Search for Reports.'' On the following page, select ''Air Emissions Reports'' and click ''Submit Search.'' From the ''Search Criteria,'' select ''Part 63—NESHAP'', and ''NESHAP—L: Coke Oven Batteries'' from the list and click ''Submit Search''. From this page, additional search criteria can be used to narrow the search to a specific facility, either through ''Submitting Organization and/or Facility Name,'' the ''Facility Location,'' or Federal Registry Service identification ''FRS ID'', which can be found at *https://www.epa.gov/frs/frs-query.* From the results screen, individual reports can be selected or multiple reports may be selected for a bulk download, either through the link at the top of the page for all reports matching the search criteria, or for a smaller subset of results through selecting multiple reports in the ''Include Report in Bulk Download'' and clicking ''Bulk Download Selected Reports'' on the bottom of the page. Depending on the overall file size, this may take some time to download.

b. Lowered Leak Limits for Doors, Lids, and Offtakes

We received a few comments on the proposed lowered leak limits for doors, lids, and offtakes with comments both in favor of the proposed requirement and comments that were opposed to the requirements or requested significant changes.

Comment: Commenters stated that they believe the leak rate data used for new limits are not a ''development in practices, processes, and control technologies.'' Commenters requested that the EPA not finalize the proposed leak limits because the proposed rule fails to demonstrate that there have been any new cost-effective developments in leak control practices, processes, or control technologies for doors, lids, and offtakes. Further, one commenter stated they believe that the EPA does not demonstrate why coke facility production capacity is a factually sound basis for establishing differing door leak limits. The commenter requested that the EPA not finalize the proposed leak limits for doors, lids, and offtakes based on capacity. This commenter also stated they believed that the EPA offers no basis for its conclusion that ''tall'' and ''not tall'' doors should have the same leak limits at facilities with less than 3 million tpy production capacity. The commenter requested that the EPA use door height for setting door limits as in current rule for lower production capacity facilities.

Commenters contended that across the cokemaking industry, leak control for doors, lids, and offtakes is achieved through operational and maintenance work practices, not through add-on pollution controls or other equipment; and the current leak control methods existed and were considered during development of the original MACT standards [for subpart L, in 1993]. The EPA's use of new leak rate data for coke battery facilities is not based on any previously unidentified leak control work practices, operational procedures, process changes, add-on controls, or pollution prevention alternatives. Leak rate data, like other forms of emissions data, are simply information about a practice, process, or control technology. The commenters stated the EPA's approach improperly equates data showing overcompliance with existing standards as ''developments'' in leak control practices and processes. Nothing in the language of CAA section 112(d)(6) gives the EPA authority to rachet-down existing MACT floor limits based solely on data showing overcompliance with those existing limits. The commenter contended there is no explanation for why the EPA selected a 3 million tpy threshold versus some other level of coke production capacity. It is counterintuitive to presume that higher coke production capacity correlates to lower leak rates. The existing subpart L door leak standards are not based on coke production capacity; and one would expect that higher production facilities have a larger number of ovens in operation, with more cycles of charges and pushes, *etc.* All of these factors would be expected to correlate with similar or higher leak rates compared to smaller capacity facilities.

The commenter also stated that since promulgation in 1993, the subpart L door leak limits have been based on the height of the door (*i.e.,* ''tall'' doors (6 meters and taller) and ''not tall'' doors) because taller doors are more correlated with the occurrence of leaks. ''Tall'' doors have a longer perimeter length compared to ''not tall'' doors, and longer perimeters have more area where leaks can occur. For example, a 6-meter ''tall'' battery door has 43 percent more perimeter length compared to a 4.3-meter ''not tall'' door. Therefore, ''tall'' doors are expected to have higher leak rates compared to ''not tall'' doors, and the existing door leak limits reflect these differences.

The commenter contended the EPA seemingly acknowledges this by proposing different leak limits for ''tall'' and ''not tall'' doors for facilities with greater than 3 million tpy production capacity. However, the EPA offers no explanation why size of the door matters for leak limits at higher production facilities but size does not matter for lower production facilities.

Response: The EPA disagrees with the commenter that the leak rate data used for new limits are not a development in ''practices, processes, and control technologies.'' The EPA believes there is a strong basis to infer that the data acquired by the EPA in CAA section 114 requests from current coke facilities in 2016 and 2022, which showed fewer leaking doors, lids, and offtakes than

that allowed under the rule, reflects improved performance due to improved work practices for observing leaks during operations, and more quickly and efficiently sealing and adjusting doors, or other practices related to door leaks. We also received additional leak data in 2023 and 2024 from a number of facilities that provide further evidence that there has been improved performance. These data are available in the docket for the final rule. There is no other known factor that correlates to reduced leak frequency or duration. As a commenter points out, these practices, broadly described, are not necessarily new. However, CAA section 112(d)(6) does not require that practices be either recently invented or recently identified. The CAA section 112(d)(6) gives the EPA authority to revise standards based upon ''developments'' in practices, which clearly can include improvements in previously existing practices and new information about the performance of those improvements. Here there is no apparent reason for lower leak rate values other than positive developments in work practices concerning detection and minimization of leaks. Industry commenters have not suggested any alternative explanation. It is therefore reasonable to infer that lower leak rate values reflect developments in work practices to control leaks. See the response to the next comment in regard to the data supporting this statement.

The lower leak rate standard for larger capacity facilities reflects the lower leak rates shown in the recent EPA Method 303 data for those operations. The commenter correctly notes that oven leak rates are not functionally related to the number of ovens at a facility; rather, leak rates depend on whether each oven is well-sealed or not. As noted above, the primary determinant of leak rates is the effectiveness of work practices to detect and minimize leaks. There is not an apparent reason for why larger capacity facilities are attaining lower leak rates other than that they are more effectively employing work practices to control leaks. Industry commenters have not suggested an alternative explanation. In this situation, the distinction based on facility size (as allowed by CAA section 112(d)(1)) reflects more effective work practices at the larger facilities. There may be, for instance, cost-related reasons why smaller capacity facilities have not employed the same work practices as larger facilities. It is reasonable to infer that a larger capacity facility may be able to invest more resources in leak control practices. Lacking a firm basis for concluding that smaller facilities can reasonably achieve the same performance as larger facilities, the EPA is finalizing the capacity-based distinction in leak rate limits supported by current measurement data.

That leak rates are primarily determined by work practices, and that work practices are not restricted to facility capacity, if anything, suggests that the lower leak rates achieved at larger capacity facilities should be achievable at smaller facilities as well. Notwithstanding such a possible inference, the EPA is setting leak rate limits at levels demonstrated to be achievable by the available data.

The EPA selected a 3 million tpy production of coke production capacity because the production of the facility in this category (nearly 5 million tpy capacity) is more than twice the capacity of the next highest facility (<2 million tons coke capacity). This is a clear break point in size between larger and smaller capacity facilities, and that break point aligns with the data showing lower leak rates at the larger facility.

Regarding the commenter's request to use door height for setting door limits for lower production capacity facilities, the EPA agrees with the commenter and is finalizing allowable door limits for both ''tall'' and ''not tall'' batteries, as described in section IV.B.4.b. of this preamble and in the *Technology Review Memorandum-Final Rule,*[25] and which reflect the current rule. Also, see the EPA's response to other comments on the revised leak limits in this section.

Comment: A commenter stated that they believed the EPA has not provided adequate information regarding what data were used and how the EPA calculated the proposed leak limits for doors, lids, and offtakes. The commenter requested that the EPA provide rationale for new leak limits for doors, lids, and offtakes. The commenter contended the *Technology Review Memorandum* identifies the proposed limits but provides little information on how the EPA derived the limits. Beyond a sentence stating that ''[t]he 2022 facility-average data showed a high of 46 percent of the standard for tall doors (standard 4.0 percent); a high of 52 percent of the standard for all other doors, *i.e.,* not tall (standard 3.3 percent); and a high of only 36 percent of the standard for foundry (standard 4.0 percent) . . .'' it is not apparent how the EPA derived any of the proposed leak limits, including the averaging time the EPA used. It is not clear if the EPA used or disregarded the 2022 ICR data in developing the proposed limits, which makes it difficult to verify the EPA's claim regarding the facility-average data.

Response: The EPA agrees with the commenter and has revised the proposed leak limits. The proposed limits were based on data described in the memorandum prepared for the proposal *Technology Review for the Coke Ovens: Pushing, Quenching, and Battery Stack and Coke Oven Batteries Source Categories,*[26] hereafter referred to as the ''*Proposal Technology Review Memorandum,*'' and specifically, Section 3.2 Current Leak Control at ByP Coke Oven Facilities and ''Table 5. Summary of ByP Facility Method 303 Performance and COE Emissions Data from 2022 Coke Section 114 Request.'' The EPA developed an annual average for 2022 each facility and each battery from the submitted monthly averages for 2022. However, we used a different approach for the final rule limits. The revised limits are based on consideration of public comments and additional facility data for rolling 30-day average leak rates received after the publication of the proposed rule, as described in section IV.B.4.b. of this preamble (*e.g.,* see table 4 in section IV.B.4.b.) and in the *Technology Review Memorandum-Final Rule.*[27]

c. Zero Allowable Leaks From HNR Oven Doors and Concurrent Oven or Common Tunnel Pressure Monitoring

We received 2 comments on requiring both zero leaks from HNR oven doors and concurrent oven and common tunnel pressure monitoring. Both commenters were not in favor of the proposed amendments to require pressure monitoring in ovens. No comments in support were received.

[25] *Technology Review for the Coke Ovens: Pushing, Quenching, and Battery Stack and Coke Oven Batteries Source Categories—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085–0873 and EPA–HQ–OAR–2003–0051–0682.

[26] *Technology Review for the Coke Ovens: Pushing, Quenching, and Battery Stack and Coke Oven Batteries Source Categories.* D.L. Jones, U.S. Environmental Protection Agency, and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085–0873 and EPA–HQ–OAR–2003–0051–0682.

[27] *Technology Review for the Coke Ovens: Pushing, Quenching, and Battery Stack and Coke Oven Batteries Source Categories—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085–0873 and EPA–HQ–OAR–2003–0051–0682.

Comment: A commenter stated that costly and onerous HNR oven pressure monitoring is unnecessary, burdensome, and unsafe. The commenter explained that if pressure monitors are located in the ovens, they must be manually cleaned out by maintenance personnel 2 to 3 times per week. The commenter requested that the EPA not require HNR oven pressure monitoring (in 40 CFR 63.303(a)(1)(i)) in addition to VE monitoring. The commenter contended the EPA lacks authority to require costly and onerous oven pressure monitoring for HNR oven door leaks. The commenter noted that the EPA had stated in the proposal that it ''did not identify any developments in practices, processes or control technologies,'' (88 FR 55883) and acknowledged that ''[VE] monitoring has been used as an effective surrogate for monitoring door leaks in the past.'' The commenter asserted the EPA incorrectly assumes that increased pressure monitoring is necessary to establish negative oven pressure. The EPA's proposed requirement ''to measure pressure in the ovens during the main points in the entire oven cycle to include, at minimum, during pushing, coking, and charging,'' (88 FR 55884), is inconsistent with its findings that for pushing and charging, ''no technology has been identified that demonstrates reduced emissions . . . beyond the current control technology in use.''

The commenter continued that installing and maintaining pressure monitors in each oven would be exorbitantly expensive, challenging, and unreliable. The commenter estimated costs of $3 to 4 million for every 100 ovens subject to this requirement. In addition, pressure monitors located in the ovens must be manually cleaned out by maintenance personnel 2 to 3 times per week, exposing personnel to excessive heat, which is an unnecessary safety risk. The commenter stated that SunCoke's heat recovery facilities already monitor negative pressure in the common tunnel electronically on a continuous basis and have one pressure transmitter for every seven (7) ovens in the battery on average. Monitoring for negative pressure in the common tunnel, in conjunction with monitoring for coke oven leaks throughout all stages of coking as previously described, accurately captures any time that an oven is experiencing positive pressure and allows personnel to take action in a timely and safe manner when necessary. Therefore, the commenter states that the EPA should not include these proposed changes to pressure monitoring in 40 CFR 63.303(a)(i) in the final rule.

Another commenter also stated that the EPA proposed rule includes unnecessary and redundant instrumentation to monitor HNR oven operational pressure continuously.

In regard to the proposed requirement to require zero leaks from HNR oven doors, as determined by EPA Method 303A, a commenter notes that SunCoke's work practices are already consistent with 40 CFR 63.303(c)(2) in that SunCoke monitors the ovens for the entirety of the coking cycle and responds to any observed door leaks to make adjustments to the ovens by reviewing electronic data and physically walking the coke oven batteries. Any door leaks due to positive pressure are corrected by adjusting oven uptakes, dampers, and/or sole flues, and are then recorded, and reported as required under 40 CFR 63.303(c)(2).

Response: In response to what the EPA believes to be credible concerns regarding safety hazards and costs, the EPA is not finalizing a requirement for both HNR oven and common tunnel pressure monitoring in 40 CFR 63.303(a)(1)(i). The costs of requiring both oven pressure monitoring and common tunnel monitoring would not be justifiable given the already low leak emissions from HNR ovens that will be complying with the 0 percent leaking oven doors requirement in the final rule, and the common tunnel pressure monitoring already in place at HNR facilities.

Because of the commenter's statements that due to another part of the COB rule, 40 CFR 63.303(c)(2), HNR facilities are already required to respond to oven leaks, and that all HNR facilities already ''monitor the ovens for the entirety of the coking cycle and respond to any observed door leaks to make adjustments to the ovens by reviewing electronic data and physically walking the coke oven batteries,'' we are promulgating the requirement for zero leaks from oven doors, with daily monitoring using EPA Method 303A, so that the current SunCoke practice to observe oven doors to maintain zero leaks is codified in the rule.

Therefore, in the final rule, a HNR facility is required to demonstrate and maintain zero leaks from HNR oven doors, and measure pressure in either the ovens or common tunnels to demonstrate negative pressure, minimally during charging, coking, and pushing.

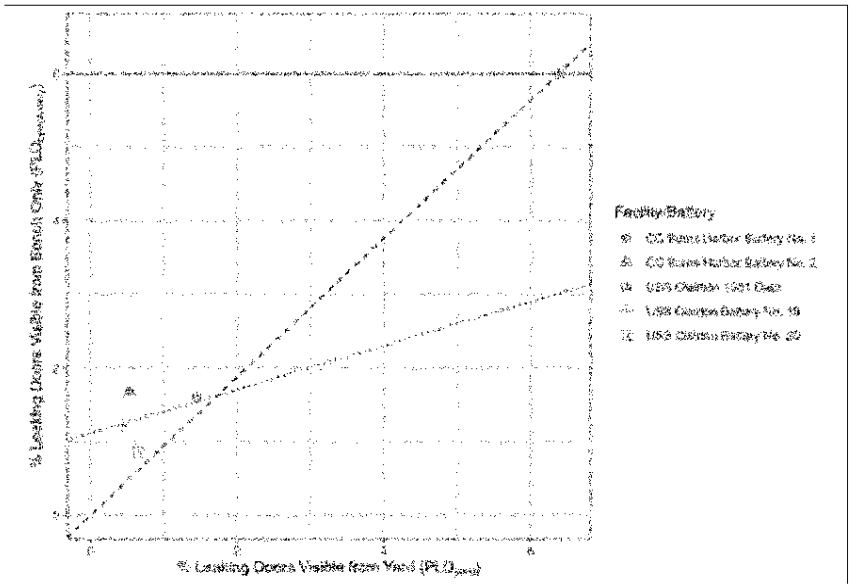
d. Revised Emissions Equation for Emissions From Leaking Doors

We received one comment on the revised emissions equation for emissions from leaking doors which suggested corrections to the equation.

Comment: A commenter stated they believe the EPA's proposed change to the equation for estimating leaks would underestimate PLD_{bench} and thus COE, and proposed an alternative equation. To test the EPA's proposed change, the commenter plotted PLD_{bench} versus PLD_{yard} (shown in this section as Commenter's Figure 1). The commenter asserted that for a valid equation the points should fall along a line with a slope of 0.94 and intercept of 0, and that because data for these four batteries in Commenter's Figure 1 are above this line, the EPA's proposed equation underestimates PLD_{bench} and thus COE.

The commenter continued that another issue is that the EPA's proposed change assumes that PLD_{bench} is zero when PLD_{yard} is zero. However, even when there are no leaks visible from the yard, there will still likely be leaks visible only from the bench. It appears a more appropriate method for estimating PLD_{bench} from PLD_{yard} is to fit a line to the data with a non- zero intercept. Doing so yields the following equation for estimating PLD_{bench} from PLD_{yard}:

$$PLD_{bench} = 0.30 * PLD_{yard} + 1.11 \quad \text{(Equation 1)}$$



Commenter's Figure 1: Plot of door leak data from the EPA's CAA section 114 request with assumed current and proposed values of PLD_{bench} only.

The commenter asserted the EPA should estimate PLD_{bench} using Equation 1 ($PLD_{bench\ only}$ = 0.30 * PLD_{yard} + 1.11), resulting in a more accurate estimate of PLD_{bench} only and presumably of COE.

Response: We agree with the commenter that there could be PLD from the bench, *i.e.,* PLD bench-only emissions, when PLD from the yard is zero. However, the term PLD_{bench} in the equation in the proposal materials represented emissions from the PLD from bench-only, see pg. 2 of the *Revised Equation to Estimate Coke Oven Emissions from Oven Doors* prepared for the proposal,[28] as well as the memorandum prepared for the final rule titled *Revised Equation to Estimate Coke Oven Emissions from Oven Doors-Final Rule,*[29] where it was stated that the PLD_{bench} term was the ''percent of doors with leaks only visible from the bench, assumed [previously] to be 6%''. The PLD-bench total is equal to ''PLD-bench only'' plus PLD visible from both the bench and the yard (PLD-yard). We have added subscripts for all the terms in the equation in the memorandum prepared for the final rule (and in this section) so that it is clear what emissions are being referenced.

The 2022 CAA section 114 test data submitted included only PLD from the bench, *i.e.,* bench total, and PLD from the yard. PLD-Bench-only is obtained from the PLD-Bench Total leak data, obtained via the 2022 CAA section 114 request, minus the PLD yard. To evaluate the door leak equation, the comparison should be between the ratio of PLD bench-only to the PLD yard.

The results of the analysis of CAA section 114 data submitted by Cleveland Cliffs' Burns Harbor and U.S. Steel's Clairton facilities are shown in table 5 of this section. Similar to the commenter, we combined the 1981 leak data with the 2022 leak data so as to have a more robust data set. We first determined the average ratio of PLD-bench-only to PLD-yard for both batteries from each facility, and from both coal and coke sides in the 1981 and 2022 data. These ratios were averaged together to produce a revised PLD bench-only/PLD yard ratio of 1.5 to use in the leak emissions equation. See table 6 of this section.

TABLE 5—SUMMARY OF DOOR LEAK STUDY AT CLEVELAND CLIFFS BURNS HARBOR AND U.S. STEEL'S CLAIRTON FACILITIES SUBMITTED FOR 2022 CAA SECTION 114 REQUEST

Facility	Battery ID	Coke side			Coal side		
		Average PLD			Average PLD		
		Bench (%)	Bench-only (%)	Yard (%)	Bench (%)	Bench-only (%)	Yard (%)
CC Burns Harbor	2	3.8	2.7	1.1	0.61	0.61	0.0
	1	4.4	2.6	1.8	1.7	0.61	1.1
	Facility Avg	4.1	2.7	1.4	1.1	0.61	0.53
U.S. Steel Clairton	20	1.1	0.38	0.72	1.9	1.3	0.57
	19	1.6	1.03	0.57	1.7	1.4	0.29
	Facility Avg	1.4	0.71	0.60	1.8	1.4	0.40

[28] *Revised Equation to Estimate Coke Oven Emissions from Oven Doors.* D.L. Jones and K. McGinn. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. August 2021. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[29] *Revised Equation to Estimate Coke Oven Emissions from Oven Doors-Final Rule.* D.L. Jones and K. McGinn. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

TABLE 6—RATIOS OF PLD-YARD TO PLD-BENCH-ONLY IN 1981 AND 2022 DATA SETS AND OVERALL AVERAGES

Facility	Battery ID	Ratio PLD bench-only/PLD yard		
		Coke side	Coal side	Average
CC-Burns Harbor	2	2.6	NA[a]	
	1	1.4	0.57	
	Facility Avg	2.0	0.57	1.3
U.S. Steel Clairton	20	0.53	2.3	
	19	1.8	4.9	
	Facility Avg	1.2	3.6	2.4
1981 Data[b]				0.94
Overall Average				1.5

[a] Coal-side ratio can't be calculated because coal-side yard PLD is zero.
[b] Ratio was determined from bench-only value of 6.0 and PLD yard of 6.4 (6.0/6.4 = 0.94).

In order to determine the value for PLD-bench only when PLD yard is equal to zero, we plotted PLD yard by PLD bench-only, similar to the commenter's approach but using PLD bench-only instead of PLD bench-total. The intercept of the regression line with the y-axis is the value for PLD-bench-only when PLD yard is 0, at 0.7 percent (or a factor of 0.007). The correlation coefficient (r^2) of the regression line is 0.84, which is considered a good fit.[30] See Figure 2 in this section.

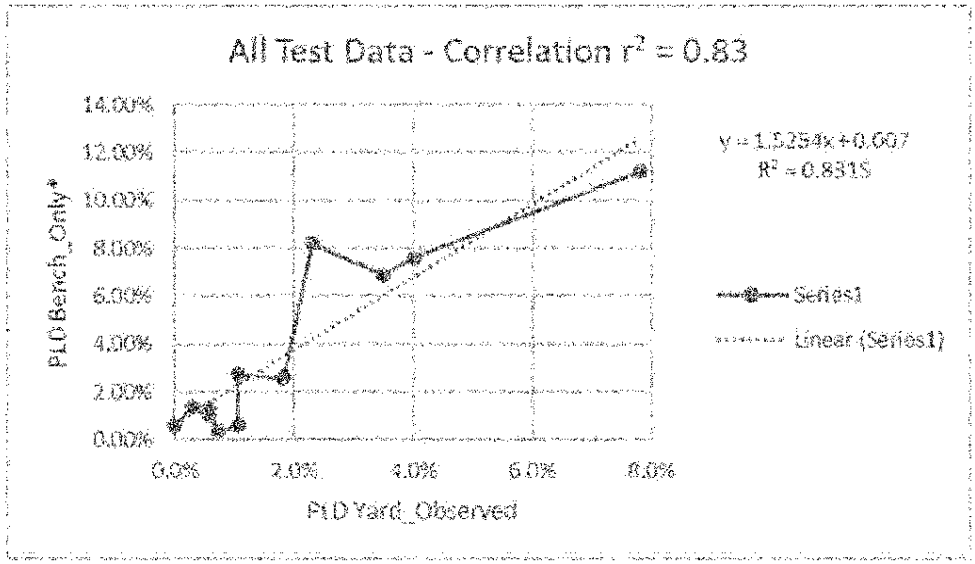


Figure 2. Regression Of 1981 And 2022 Coke Oven Method 303 Leak Data From Bench-Only And Yard

The revised door leak equation using the revised ratio of PLD-bench-only to PLD yard of 1.5 and adding a third term in the equation to represent the case where PLD-yard is equal to zero is shown below:

$$\text{COE-doors (lb/hr)} = N_D \times (PLD_{yard}/100) \times (0.04 \text{ lb/hr}) + N_D \times ((PLD_{yard} \times 1.5_{PLDbench\text{-}only/PLDyard})/100) \times (0.023 \text{ lb/hr}) + N_D \times 0.007 \times (0.023 \text{ lb/hr})$$

See the *Revised Equation to Estimate Coke Oven Emissions from Oven Doors—Final Rule*[31] for documentation of the revised leak limit equation for the final rule that reflects comments received and additional analyses.

e. Opacity Testing of HNR B/W Stacks

We received one comment on the proposed opacity limit for HNR B/W stacks that objected to the numerical value, the frequency of the proposed limit, and the coke NESHAP (COB) in which the limit was proposed. The comment is summarized below along with the EPA response.

Comment: The commenter stated that the EPA's redline version of its proposed amendments to subpart L includes a proposed change to 40 CFR 63.303(d)(3) to impose a 10 perent opacity limit on HNR B/W stacks. The commenter contends they are not aware of any coke plant that could meet the proposed limit. According to the commenter, the permits and state

[30] Davide, C., M.J. Warrens, and G. Jurman. *The coefficient of determination R-squared is more informative than SMAPE, MAE, MAPE, MSE and RMSE in regression analysis evaluation. PeerJ Comput Sci.* 2021; 7: e623. Published online 2021 Jul 5. doi: 10.7717/peerj-cs.623. July 5, 2021. *https://peerj.com/articles/cs-623/.*

[31] *Revised Equation to Estimate Coke Oven Emissions from Oven Doors-Final Rule.* D.L. Jones and K. McGinn. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

regulatory authorities already limit VE from the HNR B/W stacks to 20 percent opacity. As demonstrated by the performance testing conducted and the deviation reports submitted in response to the EPA's CAA section 114 request, the commenter stated that SunCoke is in substantial compliance with the existing opacity limits for the HNR B/W stacks. When this equipment is in operation, SunCoke personnel monitor opacity from the HNR B/W stacks and adjust oven dampers to minimize or eliminate VE if present to ensure compliance with the existing opacity limits. At SunCoke's Jewell facility, which is the only facility where the waste heat stacks operate on a continuous basis, an equivalent weekly monitoring requirement is already established by its CAA Title V requirement. The commenter stated more frequent monitoring is not necessary, citing Jewell's vast history of complying with its opacity limit.

The commenter also stated that it would not be appropriate to establish a daily [opacity] observation requirement at heat recovery facilities because the bypass stacks do not operate on a continuous basis. Because venting at SunCoke's heat recovery facilities can be brief and intermittent, imposing such a requirement any time the bypass vent stacks are in operation would result in greater environmental harm because it would extend the duration of venting to allow SunCoke sufficient time to dispatch certified personnel to the appropriate location in the plant to conduct readings per EPA Method 9. The commenter, therefore, urged the EPA to not include its proposed changes to 40 CFR 63.303(d)(3) in the final rule, and stated that including these changes would be unnecessary, arbitrary and capricious. Moreover, SunCoke notes that the EPA is attempting to regulate the same source—bypass/HNR B/W stacks—as part of two different source categories, subparts L and CCCCC. The commenter also stated that the EPA lacks authority to impose the proposed new opacity limit and the related requirements, arguing that the EPA had not shown these requirements are "necessary," taking into account developments in practices, processes, and control technologies. See 42 U.S.C. 7412(d)(6) (requiring the EPA to "review, and revise as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section"); 88 FR 55883 (the EPA "did not identify any developments in practices, processes or control technologies") (emphasis added).

Response: We agree with the commenter that daily testing from HNR bypass to achieve 10 percent opacity is not demonstrated and that 20 percent opacity is a limit that has been established as a feasible limit for HNR B/W stacks via an existing facility's permit. We also agree that the intermittent nature of the HNR B/W events could prevent HNR facilities from testing under EPA Method 9 and also could unnecessarily extend the bypass event in order to perform the testing.

Based on the comments received, we are finalizing a 20 percent opacity limit for HNR B/W stack, pursuant to a CAA section 112(d)(6) technology review of the PQBS NESHAP, to be measured weekly when a bypass event occurs for more than one continuous hour to allow sufficient time to ascertain whether the bypass event will last long enough to test opacity with EPA Method 9 and, if so, to dispatch personnel qualified to perform EPA Method 9 to the B/W stack. When there is at least one bypass event during any week that last for at least one hour, the weekly opacity testing requirement applies. This condition is important for the four HNR facilities that do not have continuous bypass. The one HNR facility with continuous bypass will be able to test anytime during each week. We agree with the commenter that the revised opacity requirements for HNR B/W stacks should be included as part of the technology review pursuant to CAA section 112(d)(6) under 40 CFR part 63, subpart CCCCC.

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

a. Coke Oven Leak Limits

The leak limits being finalized for doors, lids, and offtakes reflect changes from the proposed rule based on information obtained from a number of ByP facilities on the variability of leaks on daily rolling 30-day average basis. Using the available data, we compared the maximum 30-day rolling averages with the maximum annual averages and developed adjustment factors to account for variability. Then, we multiplied the adjustment factors by the maximum annual average for each leak type. We are promulgating these revised leak limits (shown in table 4 of this preamble). Available data demonstrate that these limits reflect current performance of facilities and are, therefore, achievable. The current performance reflects improvements in work practices, specifically practices designed to enhance prevention, detection, and remediation of leaks and, therefore, constitute a "development" for purposes of CAA section 112(d)(6).

b. Fenceline Monitoring Requirements

We revised the modeling procedures to incorporate irregular-shaped facility properties after considering public comments. This resulted in a change in the action level from 3 $\mu g/m^3$ to 7 $\mu g/m^3$. This action level reflects emissions from the whole site and takes into account all emissions from the coke oven facilities. In addition, in the final rule we are requiring fenceline monitoring and corrective action only at ByP coke oven facilities and not at HNR facilities because the HNR facilities operate under negative pressure, already have very low fugitive benzene emissions, and the NESHAP requires monitoring to ensure no fugitive emissions at HNR facilities. Furthermore, in this final rule, the EPA is providing an opportunity for facilities to develop SSMPs to account for the contribution to the fenceline monitoring by benzene emissions from co-located sources that are not currently subject to regulation under CAA section 112 (such as the non-listed CBRPs).

c. Zero Allowable Leaks From HNR Oven Doors and Negative Pressure Monitoring in Ovens or Tunnels

We are not requiring pressure monitoring in both ovens and common tunnels in the final rule for COB because we did not receive any comments in support of requiring both and we received information on the cost and other problems with installing and maintaining oven monitors. We received two comments describing the redundance of requiring both as well as description of the safety problems with using pressure monitors within ovens. In the final rule, we are requiring both zero leaks from HNR oven doors and pressure monitoring in either ovens or common tunnels. From the comments received, we learned that HNR facilities already monitor ovens to ensure there are no leaks, so the final rule codifies this practice. The compliance date for zero leaking oven doors and pressure monitoring at HNR facilities is July 7, 2025.

d. Revised Emissions Equation for Doors

We revised the proposed equation to estimate COE emissions from leaking doors based on VE test data received from two facilities that was obtained by the EPA in 2022 and combined these data with VE test results from 1981, which was when the equation first was developed. In addition, we received a comment that the equation did not account for the case where no VE from

oven doors is observed from the yard but VE from ovens is observed from the bench. A linear regression analysis of the combined 1981 and 2022 data provided a revised equation that reflects these data and addresses the comments.

e. Opacity Limits for HNR B/W Stacks

We are finalizing a 20 percent opacity limit for HNR B/W stacks under the PQBS NESHAP because this limit is currently required and achieved at the one HNR facility with continuous bypass and because the opacity limit in the rule will ensure continued compliance for this source as well as the other HNR B/W sources with intermittent bypass. We are requiring weekly testing for HNR waste heat stacks, which operate continuously. For HNR bypass stacks, which operate intermittently, testing is required weekly if and when bypass occurs longer than one hour so as to enable testing using the procedures in EPA Method 9 and so as to not prolong emitting bypass exhaust solely for the purpose of testing. The compliance date for opacity limit on HNR B/W stacks is July 7, 2025.

C. CAA Sections 112(d)(2) and (3) for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks Source Category

1. What did we propose pursuant to CAA sections 112(d)(2) and (3) for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks source category?

a. MACT Limits

Consistent with the *LEAN* decision,[32] we proposed 17[33] new MACT floor limits for unregulated HAP and processes based on available test data, as follows:

- Pushing: AG, HCN, Hg, PAHs;
- ByP battery combustion: AG, HCN, Hg, nonmercury HAP metals;
- HNR HRSG main stack: AG, Hg, nonmercury HAP metals, PAHs; and
- HNR HRSG bypass/waste heat stacks: AG, Hg, formaldehyde, nonmercury HAP metals, and PAHs.

Based on the data we had at proposal, we expected all sources could meet the 17[34] new MACT floor limits without additional controls. Compliance testing was the only costs that EPA anticipated would be associated with the proposed rule for testing. More details are provided in the August 16, 2023, proposed rule preamble (88 FR 55858).

b. BTF Standards at HNR Facilities Without HRSG

We proposed BTF limits for Hg and non-Hg particulate matter (PM) HAP metals at HNR facilities without HRSG based the addition of baghouses and activated carbon injection (ACI). More details are provided in the August 16, 2023, proposed rule preamble.

2. How did the amendments pursuant to CAA sections 112(d)(2) and (3) change for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries source categories?

a. MACT Limits

We are finalizing 17 new MACT floor-based standards[35] for unregulated HAP and processes that were previously identified in the August 2023 proposed rule. Some of the proposed 17 emission limits changed in the final rule to reflect additional data submitted by coke oven facilities since the limits were developed for the August 2023 proposal, and also from comments received on standardizing limits in gr/dscf to a specific oxygen concentration. The MACT limits, as revised, include: (1) HNR main stack limits for AG, Hg, PAH, and PM (as a surrogate for non-Hg metal HAP) based on additional data, and to standardize all limits to 10 percent oxygen; (2) HNR Bypass stack limits based on additional data for Hg and PM, and to standardize all limits to 10 percent oxygen; (3) revised limits for battery stacks based on additional data for AG, HCN, and Hg, and to standardize the proposed PM limits to 10 percent oxygen; and (4) revised limits for AG, HCN, and PAH for pushing based on additional data.

In addition to the 17 MACT floor limits described above, during the EPA's review of this Coke Ovens RTR final rule, we realized that we did not propose standards for eight additional HAP and process combinations. As a result, the EPA also is finalizing a MACT work practice standard based on "good combustion practices" in battery waste heat flues to address the organic HAP emissions of D/F, PAH, and VOHAP from battery stacks. In addition, we are finalizing surrogate standards for five additional HAP and process combinations for which many, but not all, test runs were below the detection limits (BDL), as follows: D/F, formaldehyde, and VOHAP from pushing; formaldehyde from HNR main stacks; and VOHAP from HNR B/W stacks.

The additional eight unregulated HAP and process described in this section were documented in the memorandum *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, Subpart CCCCC* prepared for the proposal, hereafter called the *"Proposal MACT/BTF Memorandum,"* [36] which was located in the docket for the proposed rule (Docket ID Item No. EPA–HQ–OAR–2002–0085–0859) and has been available since publication of the proposal in August 2023.

Although the test data for the 17 HAP[37] for which MACT floor emissions limits were proposed included some measurements that were BDL, the majority of test runs were above the detection limits. With regard to the eight additional HAP and process combinations identified for this final rule, many of the test runs were BDL and seven of the eight had a majority of test runs BDL. For all eight HAP and process combinations, emissions are low.

To address this issue, we are promulgating work practice standards pursuant to CAA section 112(h) for battery stacks based on ensuring good combustion in battery waste heat flues for D/F, PAH, and VOHAP emissions from battery stacks since it is not economically and technically feasible to

[32] *Louisiana Environmental Action Network* v. *EPA*, 955 F.3d 1088 (D.C. Cir. 2020).

[33] Note, we erroneously reported that there were 15 new MACT floor limits in the August 2023 proposal preamble. This was a typographic error. The proposed rule included 17 new MACT floor limits and 2 BTF limits; the BTF limits are not included in the final rule. However, we are adding a work practice standard in this final rule so the count of standards is now 18.

[34] Note, we erroneously reported that there were 15 new MACT floor limits in the August 2023 proposal preamble. This was a typographic error. The proposed rule included 17 new MACT floor limits and 2 BTF limits; the BTF limits are not included in the final rule. However, we are adding a work practice standard in this final rule so the count of standards is now 18.

[35] Note, we erroneously reported that there were 15 new MACT floor limits in the August 2023 proposal preamble. This was a typographic error. The proposed rule included 17 new MACT floor limits and 2 BTF limits; the BTF limits are not included in the final rule. However, we are adding a work practice standard in this final rule so the count of standards is now 18.

[36] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, Subpart CCCCC—Proposed Rule.* D. L. Jones, U.S. Environmental Protection Agency, and G. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[37] Note, we erroneously reported that there were 15 new MACT floor limits in the August 2023 proposal preamble. This was a typographic error. The proposed rule included 17 new MACT floor limits and 2 BTF limits; the BTF limits are not included in the final rule. However, we are adding a work practice standard in this final rule so the count of standards is now 18.

reliably measure emissions of these HAP, as evidenced by the large percent of test runs that are BDL. For the other five HAP and process combinations, we are finalizing a determination that three of the 17 MACT floor emission limits serve as surrogates for these five HAP and process combinations, and that the five HAP are subject to these surrogate limits. This is shown in table 7. The limits themselves are not changing otherwise as a result of this surrogacy determination. The EPA has used all data available to set valid and appropriate standards and address these eight unregulated HAP. Recognizing that additional data would further support appropriate regulation of these HAP, the Agency intends to obtain additional data, and in a separate, future action use that data to ensure the appropriateness of these standards.

The three additional emission standards and one work practice standard apply as follows: (1) the final limits for PAH for pushing serve as a surrogate for all other organic HAP for pushing, including D/F, VOHAP, and formaldehyde (all had greater than 55 percent of test runs BDL); (2) the final limits for PAH from HNR HRSG main stacks serve as a surrogate for all organic HAP from this source, including formaldehyde, for which greater than 25 percent of test runs were BDL and from very limited data (only one test report from one facility); (3) the final limits for formaldehyde from HNR HRSG B/W stacks serve as a surrogate for VOHAP from B/W stacks (for which greater than 55 percent of test runs were BDL); and (4) a work practice standard of ''good combustion practices'' during ByP waste heat combustion in battery flues to minimize organic HAP emissions from battery stacks, including PAH, D/F and VOHAP.

The good combustion work practice standards require owners or operators to identify and implement a set of site-specific good combustion work practices for each battery. These good combustion work practices should correspond to the facility's standard operating procedures for maintaining the proper and efficient combustion within battery waste heat flues. Good combustion work practices include, but are not limited to, the following:

- Proper operating conditions for each battery (*e.g.,* minimum combustion temperature, burner alignment, or proper fuel-air distribution/mixing).
- Routine inspection and preventative maintenance and corresponding schedules of each battery.
- Performance analyses of each battery.
- Maintaining applicable operator logs.
- Maintaining applicable records to document compliance with each element.

The work practice standards to minimize organic HAP emissions from battery stacks are being finalized under CAA section 112(h) because the EPA has determined that it is not feasible to prescribe or enforce an emissions standard. Sections 112(h)(1) and (h)(2)(B) of the CAA provide the EPA with the discretion to adopt a work practice standard rather than a numeric standard when ''the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.'' The ''application of measurement methodologies'' (described in CAA section 112(h)(2)(B)) means not only conducting a measurement, but also that a measurement has some reasonable relation to what the source is emitting (*i.e.,* that the measurement yields a meaningful value). That is not the case here, where a clear majority of values are BDL using best available technology.

With regard to surrogacy limits, we conclude that PAHs are a good surrogate for the other organic HAP (including D/F, VOHAP and formaldehyde) for the pushing operation because the relative amount of emissions of the other organic HAP due to the high temperature thermal distillation process in coke ovens which are expected to be emitted at a similar degree as PAHs. Regarding the HNR HRSG main stacks, PAHs are a good surrogate for formaldehyde and other organic HAP because the afterburners that facilities use to combust any remaining organic HAP in the oven exhaust are expected to control these organic HAP to similar levels as PAH. Likewise, formaldehyde is a good surrogate for VOHAP for HNR B/W stacks for the same reason (*i.e.,* the afterburners are expected to control VOHAP to a similar degree as formaldehyde).

We also conclude that the additional work practice standard and surrogacy determinations will not result in any new control costs or compliance testing costs.

The 17 MACT floor emissions limits,[38] one MACT work practice standard based on good combustion practices, and five HAP and process combinations for which surrogacy determinations have been made are shown in table 7 of this section. For additional discussion and documentation of these final MACT standards, see the memorandum *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, subpart CCCCC—Final Rule,*[39] hereafter referred to as the ''*Final Rule MACT/BTF Memorandum,*'' which is available in the docket for this rule.

TABLE 7—MACT STANDARDS FOR PQBS SOURCES IN THIS FINAL RULE

Source or process	Pollutant	Type of affected source (new or existing)	
		Existing	New
Pushing	AG	0.013 lb/ton coke [UPL]	5.3E–04 lb/ton coke [3xRDL].
	HCN	0.0015 lb/ton coke [UPL]	3.8E–05 lb/ton coke [UPL].
	Hg	8.9E–07 lb/ton coke [UPL]	5.1E–07 lb/ton coke [3xRDL].
	PAH[a]	4.0E–04 lb/ton coke [UPL]	1.4E–05 lb/ton coke [UPL].

[38] Note, we erroneously reported that there were 15 new MACT floor limits in the August 2023 proposal preamble. This was a typographic error. The proposed rule included 17 new MACT floor limits and 2 BTF limits; the BTF limits are not included in the final rule. However, we are adding a work practice standard in this final rule so the count of standards is now 18.

[39] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, subpart CCCCC—Final Rule.* D. L. Jones, U.S. Environmental Protection Agency, and G. Raymond and Michael Laney, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

TABLE 7—MACT STANDARDS FOR PQBS SOURCES IN THIS FINAL RULE—Continued

Source or process	Pollutant	Type of affected source (new or existing)	
		Existing	New
	D/F, formaldehyde, VOHAP.	Meet applicable PAH limits and requirements of 40 CFR 63.7290(e).	
Battery Stack	AG	0.160 lb/ton coke [UPL]	0.013 lb/ton coke [UPL].
	D/F, PAH, VOHAP.	"Good combustion" work practices in battery waste heat combustion flues and meet requirements of 40 CFR 63.7300(c)(4).	
HNR HRSG Main Stack	HCN	0.032 lb/ton coke [UPL]	7.4E–04 lb/ton coke [UPL].
	Hg	4.5E–05 lb/ton coke [UPL]	7.1E–06 lb/ton coke [UPL].
	PM	0.13 PM gr/dscf @10% O_2 [UPL]	0.013 gr/dscf @10% O_2 [UPL].
	AG	0.049 gr/dscf @10% O_2 [UPL]	0.0034 gr/dscf @10% O_2 [UPL].
	Formaldehyde	Meet applicable PAH limit and requirements of 40 CFR 63.7297(d).	
HNR B/W Stack	Hg	3.0E–06 gr/dscf @10% O_2 [UPL]	1.5E–06 gr/dscf @10% O_2 [UPL].
	PAH [b]	4.8E–07 gr/dscf @10% O_2 [UPL]	4.7E–07 gr/dscf @10% O_2 [UPL].
	PM	0.0049 gr/dscf @10% O_2 [UPL]	8.8E–04 gr/dscf @10% O_2 [UPL].
	AG	0.12 gr/dscf @10% O_2 [UPL]	0.093 gr/dscf [UPL].
	Formaldehyde [c]	0.0012 gr/dscf @10% O_2 [UPL]	1.8E–05 gr/dscf @10% O_2 [UPL].
	Hg	1.2E–05 gr/dscf @10% O_2 [UPL]	8.6E–06 gr/dscf @10% O_2 [UPL].
	PAH	2.7E–06 gr/dscf @10% O_2 [UPL]	2.7E–06 gr/dscf @10% O_2 [UPL].
	PM	0.032 gr/dscf @10% O_2 [UPL]	0.022 gr/dscf @10% O_2 [UPL].
	VOHAP	Meet applicable formaldehyde limits and requirements of 40 CFR 63.7298(e).	

[a] Serves as a surrogate for other organic HAP including D/F, formaldehyde and VOHAP.
[b] Serves as a surrogate for other organic HAP including formaldehyde.
[c] Serves as a surrogate for VOHAP.
Note: gr/dscf = grains per dry standard cubic feet. RDL = representative detection level. UPL = upper prediction limit.

Based on consideration of public comments and our revised cost estimates, the EPA is not promulgating the BTF standards for HNR facilities without HRSG. Instead, these units will need to comply with the same MACT floor standards that the EPA is promulgating for HNR HRSG bypass stacks for facilities with HRSG.

3. What key comments did we receive on the amendments pursuant to CAA sections 112(d)(2) and (3), and what are our responses?

We received many comments on the proposed MACT and BTF standards with comments in favor of the proposed limits, comments requesting more stringent limits, and comments that were opposed to the proposed requirements. The key comments on the proposed amendments developed pursuant to CAA sections 112(d)(2) and (3) are summarized in this section along with the EPA's responses to the comments. Other comments received on these proposed amendments are summarized along with the EPA's responses in the *Response to Comment*[40] document, which is located in the dockets for these rules.

Comment: A commenter stated that they believe the EPA is not required by CAA section 112(d) or by the *LEAN*[41] court decision to set new "gap filling" MACT floors when the cost of control is extreme and the benefit of further emission reduction is minimal due to very low risk to public health. The commenter requested the EPA consider the cost of meeting the proposed MACT standards as well as the non-air quality health and environmental impacts and energy requirements of doing so. The commenter asserted the following reasons for why they believe the EPA is not required to set new "gap filling" MACT floors for existing sources:

- Further reductions of these pollutants are not necessary due to very low risk of the source category;
- Controlling these pollutants has not been demonstrated for sources like ByP battery stacks;
- The cost of adding controls would be exorbitant; and
- The new standards would not be cost effective due to the extreme cost of controls and the minimal reductions in these pollutants that would be achieved.

The commenter urged the EPA to reconsider its long-held interpretation that costs are not considered in setting the MACT floor. The commenter argued that interpretation is not reasonable in the context of a setting *LEAN*[42] "gap-filling" MACT standards where the cost of control is extreme and the benefit of further emission reduction is minimal due to very low risk to public health. The commenter believes all relevant factors should be considered in that context, including "the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements."

The commenter also asserted that the EPA erred in calculating MACT floors for existing sources based on actual emissions performance rather than on enforceable limitations to which existing sources are subject. The commenter argues this contravenes the plain language of CAA section 112(d)(3), which requires the MACT floor to be based on the "average emission limitation achieved "by the best performing sources."

Response: Regarding the assertion that the assessment of risk should affect

[40] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

[41] *Louisiana Environmental Action Network* v. *EPA*, 955 F.3d 1088 (D.C. Cir. 2020).

[42] *Louisiana Environmental Action Network* v. *EPA*, 955 F.3d 1088 (D.C. Cir. 2020).

whether gap-filling standards are required consistent with the *LEAN*[43] decision, the EPA disagrees. The EPA has an independent statutory authority and obligation to conduct the technology review separate from the EPA's authority to conduct a residual risk review. The EPA's finding that there is an ample margin of safety under the residual risk review in no way obviates the EPA's obligation to require more stringent standards under the technology review where developments warrant such standards. The D.C. Circuit has recognized the CAA section 112(d)(6) technology review and 112(f)(2) residual review are ''distinct, parallel analyses'' that the EPA undertakes ''[s]eparately.'' *Nat'l Ass'n for Surface Finishing* v. *EPA,* 795 F.3d 1, 5 (D.C. Cir. 2015). In other recent residual risk and technology reviews, the EPA determined additional controls were warranted under technology reviews pursuant to CAA section 112(d)(6) although the Agency determined additional standards were not necessary to maintain an ample margin of safety under CAA section 112(f)(2).[44] The EPA has also made clear that the Agency ''disagree[s] with the view that a determination under CAA section 112(f) of an ample margin of safety and no adverse environmental effects alone will, in all cases, cause us to determine that a revision is not necessary under CAA section 112(d)(6).'' [45] While the EPA has considered risks as a factor in some previous technology reviews,[46] that does not compel the Agency to do so in this rulemaking. Indeed, in other instances, the EPA has adopted the same standards under both CAA sections 112(f)(2) and 112(d)(6) based on independent rationales where necessary to provide an ample margin of safety and because it is technically appropriate and necessary to do so, emphasizing the independent authority of the two statutory provisions.[47]

The language and structure of CAA section 112 further underscores the independent nature of these two provisions. While the EPA is only required to undertake the risk review once (8 years after promulgation of the original MACT standards), it is required to undertake the technology review multiple times (every 8 years after promulgation of the original MACT standard). That Congress charged the EPA to ensure an ample margin of safety through the risk review, yet still required the technology review to be conducted on a periodic basis, demonstrates that Congress anticipated that the EPA would strengthen standards based on technological developments even after it had concluded that the revision was not warranted under CAA section 112(f) . This provision's CAA section 112's overarching charge to the EPA to ''require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions)'' further demonstrates that Congress sought to minimize the emission of hazardous air pollution wherever feasible independent of a finding of risk.

When the EPA sets MACT standards pursuant to the *LEAN*[48] decision to fill regulatory gaps during a CAA section 112(d)(6) technology review, it must do so without consideration of risk. To the extent the commenter asserts that considerations of risk are relevant at this stage and that the process for setting MACT standards should be approached differently in the CAA section 112(d)(6) context than during the initial promulgation of standards for a source category, we disagree. The CAA section 112(d) clearly outlines the approach the EPA must follow in setting MACT standards. The EPA is finalizing 23 MACT standards that address 25 previously unregulated pollutants and source combinations at the MACT floor level of control pursuant to CAA section 112(d)(3) or 112(h), and as discussed elsewhere in the preamble and in the preamble to the proposal, Congress set forth a prescriptive and clear process that the EPA must follow in determining the MACT floor; that process does not include consideration of risk. Nothing in either the statute or the *LEAN*[49] decision suggests that MACT floors are to be calculated differently subsequent to a CAA section 112(f) risk review.

The EPA also disagrees that the CAA allows the EPA to take costs into consideration in determining MACT floors. The D.C. Circuit has ruled that costs are not to be considered when setting MACT floor standards. In *Nat'l Lime Ass'n* v. *EPA,* 233 F.3d 625 (D.C. Cir. 2000) (''*Nat'l Lime*''), the Court clearly stated that cost should only be considered when evaluating whether ''beyond the floor'' emission standards should be adopted: . ''*Cost, however, may be taken into account only in considering beyond-the-floor emissions limitations,*'' and that ''*cost may not influence the determination of a MACT floor,*'' which depends exclusively upon the emissions reductions achieved by the best-performing sources. *Id.* at 640 (emphasis added).

Requiring the consideration of costs in setting the MACT floor would conflict with the plain language of CAA section 112(d)(3). Section 112(d)(3) of the CAA provides that the emission standards developed under this section ''*shall* not be less stringent than'' the emission performance of the best controlled similar source, for new sources; and ''*shall* not be less stringent, and may be more stringent than'' the emission performance of the top 12% of existing sources for categories with more than 30 sources, or the top 5 sources for categories with fewer than 30 sources, for existing sources. This language provides a clear mandate and does not indicate discretion to consider cost.

We note in this context that for the Coke PQBS source category, based on the data submitted to the EPA by the industry, all facilities should be able to meet the MACT floor limits developed for the previously unregulated HAP and unregulated sources of HAP without the installation of additional controls. Commenters who raised claims of exorbitant costs to meet the new MACT floors did not provide any additional data contradicting the EPA's findings; thus, the EPA does not find any support for these claims.

Regarding the commenter's claim that the MACT floors must be based on emissions legally allowed rather than actual performance, the D.C. Circuit has spoken to this issue several times, including in *Nat'l Lime,* where the court stated that the MACT floor depends exclusively on the emissions reductions ''achieved'' by the best-performing

[43] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

[44] See, *e.g., National Emission Standards for Hazardous Air Pollutants: Refractory Products Manufacturing Residual Risk and Technology Review.* (86 FR 66045). November 19, 2021; *National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins.* (79 FR 60898, 60901). October 8, 2014.

[45] *National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins; Marine Tank Vessel Loading Operations; Pharmaceuticals Production; and the Printing and Publishing Industry.* (76 FR 22566, 22577). April 21, 2011.

[46] See, *e.g., National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.* (71 FR 76603, 76606). December 21, 2006. *See also Proposed Rules: National Emission Standards for Halogenated Solvent Cleaning.* (73 FR 62384, 62404). October 20, 2008.

[47] *National Emissions Standards for Hazardous Air Pollutants: Secondary Lead Smelting,* 77 FR 556, 564). January 5, 2012.

[48] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

[49] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

sources rather than the standard of "achievability." In *Sierra Club* v. *EPA*, 167 F.3d 658, 662–64 (D.C. Cir 1999), the court found that the individual emission levels set by EPA for MACT standards pursuant to CAA section 129 could not be supported because the emissions limitations that the EPA relied upon to set the numeric floor for each pollutant did not appear to reflect the actual individual pollutant emission levels being achieved by the best performing sources.[50] The court remanded the standards to better explain how the emissions limitations represented the actual performance of the best units or to, instead, use more reliable data. Because the EPA could not explain the original use of the emission limitations, on remand, the agency used actual performance data to establish the final standards. When the D.C. Circuit reviewed the EPA's approach in response to the remand, it found the Agency's use of the actual emissions data in lieu of the permit limits reasonable. *See Medical Waste Inst.* v. *EPA,* 645 F.3d 420 426 (D.C. Cir. 2011). The D.C. Circuit in *Northeast Maryland Waste Disposal Authority* v. *EPA* evaluated this same issue, again in the context of the analogous CAA section 129, determining that "actual" emissions, not a "reasonable estimate," should be utilized to develop a standard. *See,* generally, 358 F.3d 936 (D.C. Cir. 2004) (*"Northeast Maryland"*). Thus, MACT standards should be based on measurements that represent actual performance, not regulatory limits.

The D.C. Circuit in *Northeast Maryland* squarely rejected EPA's attempt to base MACT floors on "emission limits" set forth in state permits.[51] Petitioners specifically contended that "there is nothing in the record to demonstrate that a state permit limits . . . reflect 'the average emissions limitation achieved' " by the best performing units; environmental petitioners in *Northeast Maryland* claimed that it was likely that sources were overachieving beyond their permit limits, arguing that "the regulatory limits are in fact much higher than the emissions that units achieve in practice." *Id.* at 954. The court held that "[g]iven the absence of evidence that the permit levels reflect the emission levels of the best-performing [units] . . . we cannot uphold the MACT floors." *Id.* at 954. Thus, the court specifically held that the establishment of a CAA section 129 MACT standard based on state permit limits (*i.e.,* an "emission limitation")—alone and otherwise refraining from measuring "actual" emissions—was insufficient to meet the purposes of the statute. Other courts have likewise declined to impute the definition of "emission limitation" found in CAA section 302(k) to signify that EPA should ignore actual emission statistics. *See Cement Kiln Recycling Coalition* v *EPA,* 255 F.3d 855, 860–61 (D.C. Cir. 2001).

Comment: A commenter contended that the EPA found through its RTR that risks due to the HAP emissions from coke ovens' PQBS are "acceptable"; that the existing PQBS rule "provides an ample margin of safety to protect public health"; and that there "are no developments in practices, processes or control technologies that necessitate revision of standards for this source category" (citing 88 FR 55858, 55858). The commenter argued that the EPA's sole reason for proposing the new MACT limits is to comply with its interpretation of *LEAN* v. *EPA,*[52] but that while *LEAN* requires that the EPA "address" all HAPs known to be emitted by a source category, it does not mandate that the EPA set numerical MACT floors for every HAP, particularly those that are already controlled to an adequate margin of safety. In support of this argument, the commenter quoted language from the *LEAN* decision that "an emission standard includes *as many limits as needed* to control all the emitted air toxics of a particular source category" (emphasis added by commenter). The commenter asserts that, given a finding that risks are acceptable pursuant to CAA section 112(f)(2), the EPA should conclude, consistent with the commenter's interpretation of the *LEAN* decision, that it is not "necessary" to amend the MACT standard to include these limits.

Response: The EPA disagrees with the commenter's reading of the *LEAN*[53] decision. The Court in *LEAN* did not consider the relationship of risk review under CAA section 112(f)(2) and technology review under CAA section 112(d)(6). Nor did the Court have occasion to consider whether a standard for a pollutant previously unregulated at a source category must consider costs. The language quoted by the commenter regarding "as many limits as needed" thus could not be related to either consideration. The context of quoted language is that the Court was rejecting an argument that CAA section 112(d)(6) technology review could be completed without regulating all previously unregulated pollutants. *LEAN* thus requires that the EPA promulgate "as many limits as needed" so that all pollutants from a source category are regulated.

Comment: One commenter expressed concern that the MACT floors for PQBS sources were not developed with enough data, resulting in an invalid upper prediction limit (UPL) calculation. The commenter stated that more data would result in lower MACT limits. The commenter contended that a MACT floor based on a UPL calculation is, by design, very susceptible to variability in the underlying dataset, in addition to the average or mean value [of the data]. In other words, a data set with a high variance will result in a larger UPL than one with a lower variance for the same mean value. Thus, the variability in the dataset significantly influences the estimated UPL and the MACT floor in almost every instance. The commenter continued that an examination of the details of several calculations in the proposal illustrates the unreliability of the calculations underlying the MACT floors established in the proposed rule. For each MACT floor pool, there were at best four or five sources, and in some instances, there were just two sources that provided data—a small pool of data with high variability. The commenter requested that the EPA collect additional data to increase the data pool, to conduct proper validation of the data to eliminate any outliers, and take other measures necessary to improve the data set. The commenter is hopeful that a larger data pool will the lower the variance and result in more meaningful MACT floors. The commenter also requested that the EPA reassess the MACT floor calculations which resulted in MACT floors with higher levels than most if not all individual test data runs from which they were based.

Response: The EPA disagrees with the commenter's assertion that the MACT floor determinations are based on insufficient data. Emission limits based on testing are necessarily an extrapolation from data that does not account for operations in all circumstances at all times. Each MACT

[50] The CAA section 129 is highly analogous to CAA section 112 because the language found in both sections specifies that the respective "degree of reduction in emissions" cannot be less stringent than the "emissions control that is achieved in practice by the best controlled similar unit." *See* CAA sections,129(A)(2) and 112(d)(3).

[51] Note that in *Northeast Maryland,* the EPA tried to justify basing CAA section 129 standards on state permit "emission limitations," not through the argument currently presented by the commenter (*i.e.,* that 302(k) is a narrow definition that precludes utilizing "actual" emissions) but, rather, because "[p]ermit limits and regulatory limits provide a reasonable estimate of the actual performance []." [*Northeast* Maryland, 358 F.3d 936, at 954].

[52] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

[53] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

standard is based on limited data from sources whose emissions are expected to vary over their long-term performance. For this reason, and because sources must comply with the MACT standards at all times, consideration of variability is a key factor in establishing these standards. This variability in emissions is due to numerous factors, including operation of control technologies, variation in combustion materials and combustion conditions, variation in operation of the unit itself, and variation associated with the emission measurement techniques. In order to account for variability that is reflected in the available data that we use to calculate MACT floors, we use the UPL, which represents the average emissions achieved by the best performing sources considering variability.

In defining the parameters for the MACT floor, Congress recognized that standards will necessarily be based on data that does not account for all operating scenarios. Section 112(d)(3)(A) of the CAA provides that MACT standards shall reflect the average of the best performing sources ''for which the Administrator has emissions information.'' For categories comprised of five or fewer sources, standards shall reflect the best performing sources ''for which the Administrator has or could reasonably obtain emissions information.''

The MACT standards being promulgated in this rule reflect available information, including additional information brought forward by industry during the comment period. The EPA sent 2 CAA section 114 testing requests to coke oven companies in 2016 and 2022 to collect test data to be used in the MACT determinations. The data used for the proposed MACT limits were all the data that were available to the EPA at that time. The EPA used these data to calculate the proposed limits. However, as explained in responses to previous comments in this section, the EPA revised some of these limits after incorporating additional data received after publication of the proposed rule. These changes are described in the *Final Rule MACT/BTF Memorandum,*[54] available in the docket for this rule. Though the coke oven companies did not in all instances provide the data sought by the EPA in its 2016 and 2022 information requests, the data collection effort demonstrates that the EPA made reasonable efforts to obtain a broad set of data. The requirement for establishing the minimum stringency level under CAA section 112(d)(3) for categories or subcategories with fewer than 30 sources is that the EPA base those standards on ''the average emission limitation achieved by the best performing 5 sources (for which the Administrator has or could reasonably obtain emissions information).'' These final standards meet that requirement as explained above.

As noted above, it is not uncommon for MACT standards to be based on data sets that are comprised of test results and therefore do not represent all known operating scenarios. Some data sets are more limited than others, and the EPA has explained its approach to the more limited data sets in memoranda *Approach for Applying the Upper Prediction Limit to Limited Datasets,* versions of which are tailored to promulgation of each MACT standard as appropriate. A version of this memorandum is included in the docket for these rules.[55] The D.C. Circuit has upheld the EPA's approach to basing MACT standards on limited data sets. See *Sierra Club* v. *EPA,* 895 F.3d 1, 14 (D.C. Circuit, 2018). The approach to MACT floor calculation used here is substantially the same as that which was upheld in *Sierra Club.*

Comment: Commenters expressed concern that the lack of data used to develop MACT floors for PQBS sources (pushing, battery stacks, main stacks, HNR B/W stacks) do not show the variability in operation of the coke units taking into account the operating coke units not included in the dataset. The commenters stated that due to the lack of sufficient data, the MACT limits are lower than they would be with more data and, therefore, may require application of control technology that is not feasible or cost-effective.

One commenter asserted that the limited amount of test data does not accurately represent emissions because the data do not account for normal variability in operations, variability of coal blends and suppliers, and seasonal effects. Without additional test data, the commenter expects the proposed limits will be regularly exceeded, forcing facilities to install expensive controls or curtail operations to meet the limits.

The commenter asserted it is critical that any standards be established using complete data and UPL methodologies that adequately account for variability in operating conditions (*e.g.,* normal and extended coking times) and in raw materials (*e.g.,* coal content). Referring to the *Technology Review* and *Cost* memoranda, the commenter asserted the lack of demonstrated technical feasibility and the extremely high cost of add-on controls highlights the importance of setting standards that can be achieved by the MACT floor facilities under various operating conditions and accounting for variation in raw materials. The commenter contended that if the EPA proceeds to finalize the proposed MACT floor emission limits, it first should revise the limits by employing an additional UPL adjustment factor to account for variability that is not adequately reflected in the current data. The commenter claimed that the EPA has made such an adjustment in other rules.

The commenter contended that a single test covering less than a handful of operating hours does not represent normal emissions from a unit at all times over the range of normal operating conditions during a typical year. Actual emissions will vary from time to time not only due to normal variations in process operations (differing coking times, variability in composition of feed materials and fuels, process operating conditions, *etc.*), but also due to seasonal variations in ambient weather conditions such as temperature, precipitation, and humidity (and corresponding impacts on fuel heat input, feed materials temperatures, *etc.*). For example, emissions of Hg are highly dependent on chemical content within the raw materials (*e.g.,* Hg in coal). Mercury and chloride content in coal varies not only between coal mines, but also within a coal seam at the same mine. The commenter asserted that for these reasons, the variability of emissions is under-represented in the calculated UPLs for the proposed rule, resulting in emission limits that cannot be achieved with the EPA's stated confidence and frequency. As such, the commenter stated it is not appropriate to establish standards using such limited emissions performance data as used in the proposed rule.

One commenter noted that in section 2.1.2 of the *Technology Review for the Coke Ovens: Pushing, Quenching, and Battery Stack and Coke Oven Batteries Source Categories,* the EPA identifies potential additional control technologies for pushing including ACI

[54] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, subpart CCCCC—Final Rule.* D. L. Jones, U.S. Environmental Protection Agency, and G. Raymond and Michael Laney, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[55] *Approach for Applying the Upper Prediction Limit to Limited Datasets.* D.L. Jones, U.S. Environmental Protection Agency. Research Triangle Park, NC. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085–0891 and EPA–HQ–OAR–2003–0051–0664.

for Hg and PAHs, and wet alkaline scrubbers (WAS) for AG and HCN. But based on its review, the EPA concludes that ''[n]o capture technology has been identified that demonstrates reduced emissions from pushing beyond the current technologies in use; therefore, no recommendations are made to pushing capture or control technology under this review.''

The commenter noted that in section 2.3.2 of the *Technology Review Memorandum,* the EPA identifies potential additional control technologies for battery stacks including ACI for Hg, and WAS for AG, HCN, and non-Hg HAP metals. The EPA similarly concludes that ''[b]ecause no other add-on control technology was identified, a control strategy based on control device technology for battery stacks is not recommended at this time.''

The commenter asserted the lack of demonstrated technical feasibility and the extremely high cost of add-on controls in the *Cost Memorandum* highlights the importance of setting standards that can be achieved by the MACT floor facilities under various operating conditions and accounting for variation in raw materials. The MACT floor test data sets are too limited and do not represent normal variability in emissions and operating conditions. The commenter asserted it is critical that any standards be established using complete data and UPL methodologies that adequately account for variability in operating conditions (*e.g.,* normal and extended coking times) and in raw materials (*e.g.,* coal content). Without additional test data to revise the limits, the commenter expects the proposed limits, which are based on inadequate data according to the commenter, will be regularly exceeded, forcing facilities to install expensive controls or curtail operations in order to meet the limits.

Another commenter asserted the EPA incorrectly established the proposed HNR HRSG main stack emission limits using only a limited subset of the available data, thus, the data set is incomplete and not representative of HNR operating conditions. The commenter described the test data from the 2016 ICR and the 2022 ICR, on which the MACT floor calculations are based, as ''very limited.'' The commenter contended a much larger dataset that more accurately represents trial-to-trial and plant-to-plant variations is available from compliance tests conducted on these sources in prior years, yet the EPA provides no explanation for why it excluded this larger body of stack test data from its MACT floor calculations.

The commenter asserted the EPA's use of the limited data set and its UPL approach for setting MACT limits did not reasonably account for variability. The commenter contended there are too few data points for a statistically valid analysis and limit. The UPL calculation relies upon estimating the true average and true variance. While the estimation of the average can be confidently done with a small number of samples, the estimation of the variance requires a substantially larger number of samples and in particular samples that cover the range of varying factors.

The commenter asserted the EPA's decision to base the proposed rule requirements on limited data is arbitrary and capricious, and that the EPA gave no explanation for its decision to ignore relevant information provided by the types of facilities to which the proposed limits would apply. The commenter cited language from a court case holding that agencies ''must *examine the relevant data* and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.' '' *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Ins. Co.,* 463 U.S. 29, 43 (1983). The commenter also cited the EPA's *Guidelines for MACT Determinations under Section 112(j) Requirements* (Feb. 2002) (''It is not necessary for the MACT floor to be determined based on emissions information from every existing source in the source category or subcategory if such information is not available. The permitting authority, however, should check with the EPA Regional Offices and the EPA Headquarters for any available information that could be used in determining the MACT floor'').

The commenter asserted the EPA must recalculate the HNR HRSG main stack limits using all available stack test data from 2006 through 2022 from SunCoke HNR HRSG main stacks at Haverhill, Middletown, and Granite City, and the Cokenergy HRSG main stack at Indiana Harbor. The commenter argued the 45-day comment period did not provide sufficient time for them to fully evaluate and propose more appropriate and accurate revised limits. Nonetheless, the commenter noted their preliminary estimates (correcting for the arbitrarily confined dataset used) demonstrate that the UPL calculations used must be revised significantly.

The commenter noted the EPA expects their facilities (with the exception of the Jewell coke plant) to meet the proposed bypass vent stack limits with no additional controls. However, the commenter asserted, this expectation may be wrong as the emission limits are based on a very limited data set. The commenter contended additional controls may be required to meet the proposed bypass vent limits at some or all of their heat recovery facilities. (The commenter discussed controls needed for SunCoke's Jewell facility separately in their comment letter). The commenter explained that waste gases exiting the bypass vent stacks are typically in the 1300 °F to 2000 °F temperature range. To install any kind of additional pollution control equipment on the bypass vent stacks would first require cooling the high temperature waste gases significantly, using HRSGs or similar equipment, to a level that is appropriate for the specific control equipment. The current layout of their plants and the limited space available in and around the bypass vent stacks make it extremely challenging to design and install additional HRSGs, route additional ductwork, and install any additional control equipment for the bypass vent stacks. The commenter asserted, even if this could be engineered, the cost effectiveness ($/ton removed) would be extremely high considering the bypass vent stacks are used and open for venting only a fraction of the time on an annual basis. Even then, any time that bypass venting was required for any reason, the source would not be able to meet the proposed limits because it is not technically feasible to install controls directly on waste heat stacks.

Other commenters stated the proposed amendments to 40 CFR part 63 subpart CCCCC and subpart L are based on limited data that were not peer-reviewed data and do not consider operational variations. Additional commenters stated any amendments made to the existing regulations should be consistent with the CAA and based on sound science.

Response: The EPA disagrees with the commenter that the number of runs in the MACT dataset was insufficient to develop MACT standards. As an example that supports this point, new source MACT limits are commonly developed from data for a single test at the one top performing facility, which typically includes three test runs.

The EPA disagrees with the commenter's statement that UPL calculations do not incorporate variability into the UPL-based limit. The use of the UPL to account for variability was upheld in *U.S. Sugar* v. *EPA,* 830 F.3d 579 (D.C. Circuit, 2016). That the UPL already incorporates variability into the calculated value is explained in the memorandum, *Use of the Upper Prediction Limit for Calculating MACT*

Floors,[56] hereafter referred to as the ''*UPL Memorandum,*'' located in the docket for this rule, as follows: ''There are several key points, addressed in more detail below, that underlie the EPA's methodology for calculating MACT floor standards through the use of the UPL. First, the floor standards reasonably account for variability in the emissions of the sources used to calculate the standards. This variability occurs due to a number of factors, including measurement variability (both sampling and analysis) and short term fluctuations in the emission levels that result from short-term changes in fuels, processes, combustion conditions, and controls. Second, because the emissions data available to the EPA is in the form of short-term stack tests and the standards must be complied with at all times, the agency uses the UPL to estimate the average emissions performance of the units used to establish the MACT floor standards at times other than when the stack tests were conducted. Thus, the UPL results in a limit that represents the average emissions limitation achieved by the best performing sources over time, accounting for variability in emissions performance.''

In addition, the EPA disagrees with the commenter that the standards should be revised to use a larger pool of test data to account for variability in operating conditions. It is incorrect to assume that including more data will cause the average or UPL to reflect more variability. Depending on the additional data, the increase in the size of the dataset may outweigh any additional variability and lower the UPL limit. That the UPL represents the average emission performance is described in the second point in the previous paragraph citing the *UPL Memorandum.*[57]

Additionally, the EPA handled the limited datasets used to set the MACT limits (pushing new source limits: Hg, AG, HCN, and PAH and battery stack new source limits: Hg, PM, AG, HCN) as per the procedures in the memorandum *Approach for Applying the Upper Prediction Limit to Limited Datasets.*[58] In *Sierra Club* v. *EPA* 895 F.3d 1, 14 (D.C. Circuit, 2018), the Court decided that the EPA had sufficiently explained the general application of the UPL to small/limited datasets and denied the petition for review as to the general application of the upper prediction limit to limited datasets as defined by the EPA: ''We deny the Environmental Petitioner's petition for review as to the general application of the upper prediction limit to limited datasets as defined by the EPA.''

The EPA did not have data for each existing pushing technology as shown in table 8, which lists the existing NESHAP PM pushing limits by technology, and as compared to table 9, which shows the data collected as part of the CAA section 114 request for this rulemaking, with pushing technology identified. Therefore, separate MACT limits were not developed for each pushing technology from the data submitted to the EPA. In addition, any MACT limits that might be set for subcategories would have less variability than the data in the pooled MACT limit for all pushing technologies.

TABLE 8—EXISTING 40 CFR PART 63 SUBPART CCCCC PM PUSHING LIMITS

Source	Pollutant	gr/dscf	lb/ton
Cokeside shed	PM	0.01	
Cokeside shed vented to CD	PM	0.01	
Moveable shed/hood&CD	PM		0.02
Mobile scrubber car: Short battery	PM		0.03
Mobile scrubber car: Tall battery	PM		0.01
Mobile scrubber car: Mobile CD	PM		0.04

TABLE 9—AVAILABLE PUSHING DATA BY FACILITY AND PUSHING EQUIPMENT TYPE

Facility	Unit description	Facility type	CAA section 114 data	HAP data collected for MACT limits
CC-Burnsharbor-IN	moveable shed/hood&baghouse	ByP	2016	Hg, AG, HCN, PAH.
CC-Middletown-OH	moveable shed/hood&baghouse	ByP	2016	Hg, AG, HCN, PAH.
CC-Monessen-PA	moveable shed/hood&baghouse	ByP	2016	Hg, AG, HCN, PAH.
SC-GraniteCity-IL	flat push hot car mobile scrubber car&multiclone	HNR	2016	Hg.
SC-Middletown-OH	flat push hot car mobile scrubber car&multiclone	HNR	2016	AG, HCN, Hg, PAH.
ABC-Tarrant-AL	moveable shed/hood&baghouse	ByP		none.
CC-Warren-OH	mobile scrubber car—short battery	ByP		none.
BLU-Birmingham-AL	moveable shed/hood&baghouse	ByP		none.
EES-RiverRouge-MI	moveable shed/hood&baghouse	ByP		AG, HCN, PAH.
SC-EastChicago-IN	moveable shed/hood&baghouse	HNR		none.
SC-FranklinFurnace-OH	mobile scrubber car with multiclone	HNR		none.
SC-Vansant-VA	cokeside shed	HNR		none.
USS-Clairton-PA	moveable shed/hood&baghouse	ByP		none.

[56] *Use of the Upper Prediction Limit for Calculating MACT Floors.* Memorandum from D. L Jones, EPA/OAQPS/SPPD, Research Triangle Park, North Carolina, to Docket No. EPA–HQ–OAR–2002–0085–0890. September 2, 2021.

[57] *Use of the Upper Prediction Limit for Calculating MACT Floors.* Memorandum from D. L Jones, EPA/OAQPS/SPPD, Research Triangle Park, North Carolina, to Docket No. EPA–HQ–OAR–2002–0085–0890. September 2, 2021.

[58] *Approach for Applying the Upper Prediction Limit to Limited Datasets.* D.L. Jones, U.S. Environmental Protection Agency. Research Triangle Park, NC. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085–0891 and EPA–HQ–OAR–2003–0051–0664.

For the proposal, the EPA evaluated potential control technologies for pushing sources as documented in the *Proposal Technology Review Memorandum.*[59] The EPA found that the add-on controls for pushing were not cost effective and, therefore, we did not propose BTF limits for pushing sources. However, the EPA also estimated that the coke ovens pushing sources would be able to meet the MACT limits developed from the 2016 CAA section 114 data with no additional controls, as documented in the *Proposal MACT/BTF Memorandum.*[60]

The EPA collected test data from the 2016 CAA section 114 test requests for HNR HRSG main stacks. The EPA conducted a second CAA section 114 testing request in 2022 for additional stack testing data from HNR HRSG main stacks. The EPA used the available data to calculate the MACT limits, as described in the *Proposal MACT/BTF Memorandum.*[61]

SunCoke provided the EPA with previous stack test data from 2006–2022 with their 2016 CAA section 114 submission. After the August 2023 proposal, the EPA reviewed the previous test reports submitted that were within five years prior to 2016 and that matched the requirements for testing in the CAA section 114 requests to add to the MACT data pool. We determined that there were four test reports listed in table 10 of this section, three for HNR HRSG main stacks and one for HNR B/W stacks, that were applicable to sources and pollutants in the CAA section 114 requests and, therefore, we have incorporated these data into a revised MACT floor calculation for the final rule.

We received test data from Cokenergy, Inc., for HNR HRSG main stacks at the SunCoke facility in Indiana Harbor in 2022, but these data were received too late to incorporate into the proposed rule. These data also are included in the MACT limits for HNR HRSG main stacks for the final rule.

In addition, we received test data from EES Coke on April 24, 2024, that included HAP test data from a February 21, 2024, emission test for pushing and battery stacks. We determined that of the HAP tested, the data for AG, HCN, and PAH for pushing and AG, HCN, and Hg from battery stacks were valid. Therefore, these data also were incorporated into the MACT limits.

The additional test data added to the final MACT data pool that were not reflected in the proposed MACT limits are shown in table 10. The results of these additions to the MACT data pool are shown in table 7 and documented in the *Final Rule MACT/BTF Memorandum.*[62]

TABLE 10—ADDITIONAL DATA RECEIVED AFTER PROPOSAL

Facility ID	Unit type	Unit tested	Pollutant	Test date
SC-GraniteCity-IL	HNR HRSG main stack	main baghouse stack	PM	8/25/2011
SC-GraniteCity-IL	HNR HRSG main stack	main baghouse stack	PM	5/30/2012
SC-Middletown-OH	HNR HRSG main stack	main baghouse stack	PM, Hg	4/1/2015
SC-Middletown-OH	HNR HRSG B/W stack	HRSG bypass stack #4	PM, Hg	6/26/2012
Cokenergy	HNR main stack	HRSG main stack	AG, Hg, nonmercury HAP, PAH.	2/2/2023
EES-RiverRouge-MI	pushing	pushing emission control system stack.	AG, HCN, PAH	2/21/2024
EES-RiverRouge-MI	battery stacks	underfire combustion stack	AG, HCN, Hg	2/21/2024

For the August 2023 proposal, the EPA estimated the costs for additional controls that would be used at the HNR facility without a HRSG to meet the proposed BTF limits for Hg and PM at HNR B/W stacks at this facility. The EPA has re-evaluated the proposed costs for the BTF limits based on comments received and revised the cost estimates for the HNR facility without HRSG. The revised costs are much higher than the costs at proposal ($7.5M capital and $4.6M annual costs ($2022) v. revised costs of capital $340M capital and $56M annual costs ($2023)). We also received comments that it would be infeasible to construct controls at this facility given the configuration of the facility between the bordering roads, rivers, and train tracks on all sides. Therefore, due to the physical constraints and high costs, the EPA is not finalizing the BTF standards for Hg and PM for HNR B/W stacks at facilities with no HRSG. As such, revised MACT standards for HNR B/W stacks were determined by incorporating the previous SunCoke Hg and PM test data described above and the data for the HNR facility without HRSG (previously used in the BTF analysis). The revised MACT limits for final rule apply to all HNR B/W stacks, *i.e.,* HNR facilities with and without HRSG.

The EPA agrees that the MACT standards should be consistent with the CAA and based on ''sound science'' as the commenter describes. The EPA utilized data conducted and submitted in compliance with two CAA section 114 requests, in 2016 and 2022, and additional valid data received after the proposed rule was published. The EPA developed the standards according to well-established CAA section 112(d)(2) and (3) procedures, established EPA methods and policy, and case law and incorporated operational variability by applying a UPL to the MACT floors. See

[59] *Technology Review for the Coke Ovens: Pushing, Quenching, and Battery Stack and Coke Oven Batteries Source Categories.* D.L. Jones, U.S. Environmental Protection Agency, and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085–0873 and EPA–HQ–OAR–2003–0051–0682.

[60] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, Subpart CCCCC—Proposed Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[61] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, Subpart CCCCC—Proposed Rule.* D. L. Jones, U.S. Environmental Protection Agency, and G. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[62] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, subpart CCCCC—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G. Raymond and Michael Laney, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

the *UPL Memorandum*[63] and *Final Rule MACT/BTF Memorandum*[64] for details of the MACT standards development.

In regard to the comment that the proposed amendments to PQBS and COB NESHAP are based on "limited data" that were not peer-reviewed, the EPA notes that it would be out of the ordinary to subject data used to support a CAA regulation to a scientific peer review process. The methods used to collect data are peer reviewed, and the EPA engaged in a dialogue with the coke oven plants regarding the data produced in response to a CAA section 114 request to ensure that data was representative. Finally, the notice and comment process to promulgate a rule is an opportunity for interested parties to raise issues regarding the data relied upon by the EPA. These measures typically relied upon by the EPA to ensure the quality of data were followed in this rule process.

Finally, the requirement for establishing the minimum stringency level under CAA section 112(d)(3) for categories or subcategories with fewer than 30 sources is that the EPA base those standards on "the average emission limitation achieved by the best performing 5 sources (for which the Administrator has or could reasonably obtain emissions information)." These final standards meet that requirement.

Comment: One commenter asserted that the EPA has not justified their decision to set BTF limits for their Jewell facility, nor has the EPA demonstrated that the limits are "achievable" as required by the CAA. The commenter argued the BTF limits are far from technically, physically, and economically achievable, however, even if they were, meeting the limits would have significant energy requirements and non-air quality health and environmental impacts that the EPA insufficiently considered. Additionally, the EPA's determination that the BTF measures were "cost-effective" was based on erroneous data concerning not only the costs of such measures, but also their effectiveness at reducing Hg and other HAP emissions.

The commenter said the EPA's costs are underestimated for other reasons as well, including the following:

- The EPA miscalculated the emissions reductions of the proposed BTF limits at their Jewell facility because they wrongly assumed the feasible reductions of a baghouse and ACI system on a long-term basis. According to the commenter, 99 percent removal for the baghouse is a more realistic assumption of long-term removal than the 99.9 percent removal assumed by the EPA. Similarly, for Hg, a baghouse with ACI combination can only reasonably provide 80 percent Hg removal on a long-term basis versus the 90 percent reduction assumed by the EPA.
- The EPA's estimates did not include cooling before subjecting the 1,600 °F exhaust from the HNR B/W stacks to emissions controls, as would be necessary for the baghouse to function. The oven exhaust must be cooled from 1,600 °F or more to a maximum of 400 °F for high temperature bag material to function. And an air quench, as opposed to a water quench, would be required because the enormous water volumes otherwise required would far exceed the limitations of Dismal Creek, the source of plant cooling water. The air quench would result in a constant steam cloud within the valley. The commenter contended these two factors alone make a baghouse and an ACI system technically infeasible for this site.
- The ductwork costs assume only a nominal length of unlined, galvanized steel duct between the battery stacks and the air emission controls. No provision for refractory lining, and ductwork foundations, structural support, access platforms, and underground routing of the duct were considered.
- The assumed height of the exhaust stack was too low. Given the valley location of the Jewell facility, an exhaust stack of significant height should have been considered.
- A shaker baghouse—notably the lowest capital cost baghouse type—was assumed. Shaker baghouses are old technology no longer used in industry because of high maintenance requirements, challenges with operation, and degradation of removal efficiency over time. A compartmentalized, pulse jet baghouse is the industry standard for this application.
- The EPA failed to consider the characteristics of the exhaust gases and the requisite materials of construction.
- The EPA incorrectly assumed the volume of flue gas that would need to be treated based on arbitrary data from a single stack at a different plant.
- The EPA failed to consider the unique retrofit requirements that would be necessary given the age, configuration, layout, and underground utilities existing at the Jewell facility.
- The EPA significantly underestimated the amount of electricity usage and hazardous waste that would be generated.
- The EPA used an incorrect algorithm to calculate the total capital investment for ACI (Sargent & Lundy 2011).
- The EPA used an incorrect methodology to calculate the ACI rates. Based on the methodology included in a later study by the same authors (Sargent & Lundy 2017), the rate should be 699 lbs/hr rather than 50 lbs/hr, as the EPA assumed.
- The EPA did not sufficiently consider the infrastructure upgrades that would be needed to install controls to meet BTF limits at their Jewell facility.
- The EPA wrongly calculated the increased energy costs to meet the BTF limits for their Jewell facility. The commenter noted they have not been able to locate the EPA's energy analysis.
- The EPA underestimated the tons of hazardous dust disposal at 761 tpy.

The commenter contended that their Jewell facility, which is in a river valley with rivers, a state road, railroad tracks, and extremely steep gradients on two sides, does not have sufficient space to install the size of baghouse(s) needed to control the exhaust from the COB. The commenter contended installing the infrastructure could require surfaces to be levelled and forested areas to be cleared. These electrical upgrades would likely impact wetlands, visual resources, soils, and/or vegetation and wildlife species in the affected areas, which the EPA does not appear to have considered.

Response: The EPA agrees with some of the commenter's points and suggested revisions and has incorporated them into revised air pollution control device (APCD) costs and BTF Hg and PM HAP metals cost effectiveness, as described below. Details of the revised cost estimates can be found in the *Final Rule MACT/BTF Memorandum.*[65]

[63] *Use of the Upper Prediction Limit for Calculating MACT Floors.* Memorandum from D.L Jones, EPA/OAQPS/SPPD, Research Triangle Park, North Carolina, to Docket No. EPA–HQ–OAR–2002–0085–0890. September 2, 2021.

[64] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, Subpart CCCCC—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G. Raymond and Michael Laney, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[65] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, Subpart CCCCC—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G. Raymond and Michael Laney, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

• The EPA revised the BTF cost estimates developed by the EPA for proposal using some, but not all, of SunCoke's suggestions submitted with their comments, such that the EPA's cost and cost effectiveness (CE) estimates now include the following SunCoke costs/procedures that the EPA agrees are better estimates, as described in the *Final Rule MACT/BTF Memorandum;*[66] increased duct length based on SunCoke provided values; increased the stack flowrates based on SunCoke provided values; added 1 baghouse for a total of 3 baghouses; decreased the operating hours; lowered Hg control efficiency based on SunCoke's comment about long-term removal efficiency; lowered baghouse control efficiency based on SunCoke's comment about long-term removal efficiency; different units of measurement for ACI injection rate (lb/hr) based on SunCoke provided estimates; and itemized direct and indirect capital costs for installing baghouses. The estimated CE for Hg and non-Hg metals control were revised to $51K/lb and $14M/ton, respectively.

• The EPA did not use SunCoke's values/estimates/procedures for: ACI 2017 cost equation; estimating ductwork costs; 5 percent interest rate; and $44.25 labor rate. Instead, we used the EPA's previous method of estimating ACI control costs from 1996 proposed hazardous waste incineration NESHAP[67] (using SunCoke's ACI lb/hr injection rates), the EPA Cost Manual for ductwork costs (using SunCoke's length of ductwork), 2022 interest rate of 7.5 percent, and a labor rate of $29.44/hr from U.S. Bureau of Labor Statistics.

The result of revising the costs components are as follows: estimated capital costs are $340M, estimated annual costs are $56M, with cost-effectiveness of $14M/ton non-Hg metals and $51,000/lb Hg. Based on these cost considerations along with concerns raised by the commenter above regarding infeasibility to install these controls, the EPA has decided to not promulgate the BTF standards. Therefore, the MACT floor emission limits will apply to all HNR waste heat stacks, including the SunCoke Vansant, Virginia waste heat stacks, regardless of the presence of HRSGs. See the *Final Rule MACT/BTF Memorandum*[68] for details.

The EPA agrees that the calculation for the increased electricity use was not explicitly documented in the information used for proposal. The values can be calculated using data in the attachment to the *Proposal MACT/BTF Memorandum*[69] *''Appendix_D_BTFCosts_Bypass_ACI–PBH''* excel file, in the tab 'BH-duct8V', as follows:

(1) Using cell B129 value of electricity 514,816 $/yr;

(2) Divide by cell D112 electricity price 0.0671 $/kWh; and

(3) Multiply by 2 for the two APCD configurations to obtain a total of 15.3 million kilowatt-hours of increased electricity use [Note, the preamble to the proposed rule erroneously cited 15.1 million kilowatt-hour, due to rounding differences].

4. What is the rationale for our final approach for the amendments pursuant to CAA sections 112(d)(2) and (3)?

As mandated by the *LEAN*[70] court decision, the EPA is finalizing MACT standards for previously unregulated HAP emissions pursuant to CAA sections 112(d)(2) and (3). The final MACT limits were developed using the valid data available to the EPA according to established procedures for development of MACT limits which includes accounting for operation variability with use of UPL procedures[71] and accounting for small datasets.[72] Based on the available data, we expect all facilities to be able to meet these MACT floor limits without the need for additional controls. These MACT floor-based limits are based on the UPL calculated with available data. All the test data results we have (based on 2- or 3-run averages) are below the promulgated MACT floor limits. The UPLs account for variability and provide limits that reflect the requirements of the statute.

D. Periods of Startup, Shutdown, and Malfunction (SSM) for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries

1. What did we propose pursuant to SSM for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries source categories?

We proposed the removal of exemptions for periods of startup, shutdown, and malfunction (SSM) consistent with a 2008 court decision, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), and that the emissions standards apply at all times. In establishing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained in the proposal preamble, has not established alternate standards for those periods.

2. How did the amendments pursuant to SSM change in the final rule for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries source categories?

Only minor changes from those proposed were made for SSM for the NESHAP for PQBS and COB source categories.

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

We received a few comments on SSM, with some in favor of the removal and some that were not. The key comments on SSM are summarized in this section along with the EPA's responses to the comments. Other comments received on SSM are summarized along with the EPA's responses in the *Response to Comment*[73] document, which is located in the dockets to the rules.

[66] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, Subpart CCCCC—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G. Raymond and Michael Laney, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[67] Revised Standards for Hazardous Waste Combustors. Proposed Rule. U.S. Environmental Protection Agency, Washington, DC. 61 FR 17358. April 19, 1996. Docket Number EPA–HQ–OAR–2004–0022. *https://www.govinfo.gov/content/pkg/FR-1996-04-19/pdf/96-7872.pdf.*

[68] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, subpart CCCCC—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G. Raymond and Michael Laney, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[69] *Maximum Achievable Control Technology Standard Calculations, Cost Impacts, and Beyond-the-Floor Cost Impacts for Coke Ovens Facilities under 40 CFR part 63, subpart CCCCC—Proposed Rule.* D.L. Jones, U.S. Environmental Protection Agency, and G. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[70] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

[71] *Use of the Upper Prediction Limit for Calculating MACT Floors.* Memorandum from D.L Jones, EPA/OAQPS/SPPD, Research Triangle Park, North Carolina, to Docket No. EPA–HQ–OAR–2002–0085–0890. September 2, 2021.

[72] *Approach for Applying the Upper Prediction Limit to Limited Datasets.* D.L. Jones, U.S. Environmental Protection Agency. Research Triangle Park, NC. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085–0891 and EPA–HQ–OAR–2003–0051–0664.

[73] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

Comment: A commenter said that eliminating the SSM provisions subjects coke manufacturers to penalties based on events that cannot be avoided. The commenter requested the EPA to develop work practice standards to address SSM and/or allow facilities to follow a SSM plan during SSM events. Two commenters said they disagreed with the EPA's proposal to eliminate the SSM provisions and that the emission standards applying during these periods. The commenters said that alternate limits must be established for emissions during these periods because the proposed limits in 40 CFR 63.7297 ("What emission limitations must I meet for HRSG main stacks?") would be impossible to meet otherwise. The commenter continued that they believed the EPA should evaluate the need for a work practice standard that would allow coke facility owners/operators to address major malfunctions following a site-specific plan, in lieu of normal emission standards, and use the facilities' SSM plans to develop work practices. The commenter stated that the EPA has discretion to account for emissions that occur during malfunctions and set separate work practice standards where (1) sufficient information is available, and (2) the circumstances indicate that treating malfunction periods the same as normal operating periods would not be appropriate. The commenters noted that emissions during malfunction periods may increase until it is possible to complete repairs safely and restart the equipment and that coke facilities should have an option to meet work practice requirements for malfunction periods or meet the requirements applicable to normal operating periods. If a facility chooses to meet the requirements applicable to malfunction periods, then the work practice standard could require that the facility create and follow a malfunction work plan with site-specific operating conditions, unless doing so would not be possible due to safety considerations. A commenter disagreed with the EPA's proposal to eliminate the requirement to have a written SSM plan, and thus eliminate the ability of facilities to demonstrate compliance if the regulated entity complies with the plan during SSM.

Response: The EPA expects control devices to be operating during startup and shutdown (SS); therefore, no additional requirements should be needed for startup or shutdown. The EPA asked for comments on whether any situations exist where separate standards, such as work practices, would be more appropriate during periods of SS rather than the current standard. The commenters did not provide a description of specific situations where work practice standards, or any specific work practices, would be more appropriate than the numerical emissions standards we are finalizing in this rule (or standards that were already in the NESHAP) that would be appropriate during startup or shut down.

In regard to the commenter's statement that "coke facilities should have an option to meet work practice requirements for malfunction periods or meet the requirements applicable to normal operating periods," the EPA notes that facilities always have the option of complying with the applicable limits and using work practices, even during a malfunction. As stated in the proposal preamble [88 FR 55890]: " the standards that apply during normal operation apply during periods of malfunction." As the EPA has consistently explained, in the event that a source fails to comply with the applicable CAA section 112 standards, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during the violative period, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. Additionally, the EPA will continue to evaluate violations on a case-by-case basis and determine whether an enforcement action is appropriate." The D.C. Circuit upheld the EPA's general approach to malfunctions in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016) (CAA section 112 "permits the EPA to ignore malfunctions in its standard setting and account for them instead through its regulatory discretion").

With regard to commenters statements addressing the removal of SSM plan requirements, note that affected units are subject to emission standards at all times. The applicability of a standard during any SSM event will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

Comment: A commenter agreed with removal of the SSM provisions because the EPA now lacks the authority to retain SSM exemptions. The commenter contended the EPA correctly proposed to remove SSM loopholes from Subparts L and CCCCC. The commenter explained that the CAA directs the EPA to set emission standards for all HAP emitted by a source category, and such emission standards must apply continuously. The [previous] existing emission standards allowed a general exemption during SSM periods. This general exemption is inconsistent with the Act's mandate that standards apply continuously, and as such, the D.C. Circuit struck it down in 2008, in *Sierra Club* v. *EPA.* The EPA thus lacks any authority to retain such an exemption when it reviews standards under CAA section 112(d)(6): "The obligatory periodic review and revision of 'emission standards' thus must ensure that each source category's standard imposes appropriate limits. . . ." Standards that violate the Act because they include SSM exemptions cannot be appropriate. Commenter stated that the EPA correctly declines to factor malfunction emissions into standards. The EPA's position is not only reasonable, but the only one consistent with the Act. Congress rewrote CAA section 112 in 1990 to ensure that emissions of HAPs would be controlled. During malfunctions, by definition, emission controls fail. Incorporating such emissions into standards would thus allow uncontrolled emissions, contrary to Congress's intent and binding D.C. Circuit precedent.

Response: We acknowledge the support by the commenter. We note that malfunctions can include malfunction of process operations or monitoring equipment as well as failure of emission controls.

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

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead, they are by definition, sudden infrequent and not reasonably preventable failures of emissions control, process, or monitoring equipment (40 CFR 63.2) (definition of malfunction). Nor are emissions during a malfunction able to be reliably measured with EPA methods which specify that these methods are only to be used during normal operations. The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards (either numerical or as work practices)and this reading has been upheld as reasonable in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). The D.C. Circuit agreed with the EPA's approach, as it relates to the difficulties in determining an appropriate numerical standard that

would reflect the MACT limits required by CAA section 112 and the immense spread of variability that would ensue if the EPA were to include conditions during a malfunction. In essence, the D.C. Circuit concluded that any such standard would be too broad and would be meaningless with respect to the intent of CAA section 112 MACT standards.

We are finalizing the removal of exemptions for periods of SSM consistent with a 2008 court decision, *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), and clarifying that the emissions standards apply at all times. We are not promulgating any separate standards for startup or shut down because the control devices in use in the industry operate at all times.

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

With the issuance of the mandate in *Sierra Club* v. *EPA,* the exemptions that were in 40 CFR 63.6(f)(1) and (h)(1) are null and void. The EPA amended 40 CFR 63.6(f)(1) and (h)(1)) on March 11, 2021, to reflect the Court order and correct the CFR to remove the SSM exemption. In this action, we are eliminating any cross-reference to the vacated provisions in the regulatory text including 40 CFR 63.7310(a) and table 1 of the PQBS NESHAP and 40 CFR 63.300(e) and 63.310 for the COB NESHAP. Consistent with *Sierra Club* v. *EPA,* we are promulgating standards in these rules that apply at all times. We are also promulgating several revisions to table 1 of the PQBS NESHAP (the General Provisions applicability table) as is explained in more detail below and in the proposal preamble. For example, we are eliminating the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are eliminating or revising certain recordkeeping and reporting requirements related to the SSM exemption as further described as follows.

The EPA has attempted to ensure that the provisions we are promulgating to eliminate are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. In promulgating the standards in this rule, the EPA has taken into account SS periods and, for the reasons explained as follows, has not promulgated alternate standards for those periods: The coke oven industry has not identified (and there are no data indicating) any specific problems with removing the SSM provisions due to the nature of the coke process to operate continuously. If an oven is shut down (cold), it often has to be significantly repaired before it can be restored to operational status before starting back up, which is the reason why coke ovens instead are put in (hot) idle mode when not operating.

For all the above these reasons, we are finalizing that the standards for PQBS NESHAP and the COB NESHAP apply at all times including startup, shut down, and malfunction.

E. Other Issues

1. What did we propose?

We did not propose any amendments that were expected to force facilities to close, as described in the economic analysis performed for the proposed rule. We also did not propose to list CBRP facilities under CAA section 112.

2. How did the amendments pursuant to Other Issues change for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries source categories?

a. Facility Closures

We did not finalize any amendments that were expected to force facilities to close, as described in the economic analysis for the final rule. See section V.D.

b. Listing CBRP Facilities Under CAA Section 112

In the final rules as in the proposal, we are not listing CBRP facilities under CAA section 112 but we intend to list CBRP operations as a source category under CAA section 112(c) in a separate, future regulatory action. We intend to provide the EPA's rationale for such listing in the future action along with details of the EPA's regulatory activities in regard to the CBRP facility. We will perform data gathering to support the listing using a CAA section 114 request that we intend to distribute by the end of the 2024 calendar year and that will request information related to CAA section 112 requirements.

3. What key comments did we receive on the Other Issues and what are our responses?

The key comments on the Other Issues are summarized in this section along with the EPA's responses to the comments. Other comments received on these issues are summarized along with the EPA's responses in the *Response to Comment*[74] document, which is located in the dockets to the rules.

a. Facility Closures

We received a few comments on the potential for facility closures as a result of the proposed amendments. These comments are summarized below along with the EPA responses.

Comment: Commenters stated that they believe the EPA's proposed changes would cause additional coke plant closures or curtailments, leading to a decline in domestic steel and cast iron production. Commenters further stated that regulations rendering domestic cokemaking infeasible would further cripple the domestic steel and iron foundry industries, increase the necessity to import these products, hinder the U.S. transition to a low-carbon economy, and cause job loss in economically distressed areas. Commenters requested that the current proposal be modified to minimize impact to industry.

One commenter stated that there are only two remaining blast furnace steelmakers in the U.S., namely Cleveland-Cliffs, Inc., and U.S. Steel, both of whom rely heavily on the coke industry to provide them millions of tons of coke annually. The commenter asserted that should SunCoke be forced to curtail or cease coke production to meet the new limits as required by the EPA rulemaking, SunCoke may be unable to meet its contractual obligations and be unable to supply steelmakers with the quantities of coke necessary to fuel the domestic steel industry.

The commenter emphasized that a strong domestic steel industry is vital to national and economic security, the U.S. clean energy transition and decarbonization strategy, critical infrastructure, and the competitiveness of many domestic manufacturing industries. The domestic steel industry is the cleanest and most energy-efficient in the world; steel production in the

[74] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

United States has the lowest GHG emissions intensity of the nine largest steel producing countries and the EU–27. The commenter contended that the curtailment of domestic steel production due to a coke supply shortage would make the U.S. dependent on imports of steel from countries where GHG emissions from steel production are substantially higher, not to mention the environmental emissions associated with shipping millions of tons of coke across the world. The commenter also asserted that their cokemaking process creates higher quality, higher strength coke that results in steelmakers using less coke in their blast furnaces and thereby lowering their GHG emissions. The commenter stated that SunCoke invests in maintaining and improving its cokemaking plants with environmentally superior technology and younger cokemaking assets.

Other commenters contended our national security, in both the economic and military senses, depends on being able to convert iron ore into a usable product for our nation. Our manufacturing, transportation, construction, energy, and military all require steel. The U.S. steel industry cannot be 100 percent recycled steel as it needs new iron units for quality and quantity reasons. Coke batteries make coke, coke reduces iron oxide from in the ground to usable pig iron, and pig iron makes steel. It is fundamental to so much of the U.S. economy and we need U.S. Steel's coke batteries to remain operational and competitive.

Several commenters contended the U.S. Department of Commerce has recognized that the domestic steel industry is vital to assuring our national security and maintaining critical infrastructure. It is crucial that we continue to maintain the balance of environmental responsibility and economic opportunity for our country. We should not risk the future of our remaining manufacturing jobs and national security. The U.S. Steel facilities are very important to our region and country. Working together, we can accomplish three important goals for future generations: protect our region's jobs, preserve our environment in which we work and live, and preserve our ability to convert iron ore into steel for national economic and military security.

One commenter stated the proposed EPA rule threatens to make coke production uneconomical (through the cost of controls) and impractical (through compliance with the new standards that, as written, is a practical impossibility). If implemented, the proposed EPA rule will reduce coke reduction in the U.S. at a time when domestic steel production is more important than ever.

Another commenter stated the proposed amendments could be detrimental to the coke industry and reduce U.S. production, with potentially negative ramifications for the U.S. economy.

Another commenter stated over the past decade, numerous coke plants have been forced to close due to aging assets and increasing facility costs to meet existing environmental requirements. The EPA's proposed rule would only further this trend, by imposing unattainable emission limits, extensive compliance tests, and costly surveillance for all coke facilities. These new standards would cost coke plants millions of dollars in compliance and force many to shutter their doors due to the stringent and impractical demands.

Response: The EPA disagrees with the commenter that the rule would cause additional coke plant closures or curtailments, leading to a decline in domestic steel and cast iron production. The EPA estimated that all sources can meet the MACT floor standards and would not have to install controls to meet the limits. Note, the EPA is not finalizing the BTF Hg and PM standards for HNR B/W stacks proposed for facilities with no HRSG.

As explained in the memorandum *Coke Ovens Risk and Technology Review: Compliance Costs*[75] prepared for the proposal, costs for fenceline monitoring were estimated at about $101,496 per facility including recordkeeping and reporting ($2022); costs for MACT compliance testing including recordkeeping and reporting for ByP facilities were estimated to range from $151,802 to $442,414; costs for MACT compliance testing for HNR facilities was estimated to range from $291,285 to $823,767. The MACT compliance testing is required in the final rule to be performed every 5 years or every permit cycle (at the beginning of the permit cycle), whichever period is shorter.

As documented in the *Economic Impact Analysis* (EIA)[76] prepared for the proposed rule, based on the Small Business Association (SBA) standards and the company employment figures (shown in table 3–1 of the EIA), none of the firms that own affected coke facilities are small businesses and the compliance costs are small relative the revenues of the steel industry.

All previous coke plant closures have been due to a combination of market reductions in demand for steel and, therefore, coke, and multiple noncompliance issues with their states for sources that were not Coke PQBS or COB mission sources but which required significant upgrades and cleanup costs.

There currently are three ByP companies producing blast furnace coke at five facilities (two facilities recently shut down). There was an acquisition by Cleveland Cliffs, Inc., of AK Steel and ArcelorMittal in 2020 that reduced the number of companies but not the number of facilities. There is one HNR company producing blast furnace coke at five facilities and two ByP companies producing foundry coke at two facilities (one is cold idle).

See sections V.C. and V.D. of this preamble for more information about the costs and economic impacts of these rules.

b. Listing CBRP Facilities Under CAA Section 112

We received a few comments on listing CBRP facilities under CAA section 112. All except one were in favor of listing. These comments are summarized below along with the EPA response.

Comment: Commenters stated that they believe the EPA should list the CBRP under CAA section 112 so that the standards can be updated in an RTR. The commenters requested that the EPA list the co-located CBRPs as a source category under CAA section 112. The commenters support the EPA's intentions to list co-located CBRP at ByP facilities as a source category under CAA section 112(c)(5). However, where the EPA has not fulfilled its duty to revise technology and risk standards for ByP recovery plants, the EPA must approach listing co-located CBRP with an increased sense of urgency. The commenters asserted the risk and technology review for CBRP was completed prior to the 1990 CAA Amendment framework and is due to be revised. Another commenter requested the EPA update standards on CBRP,

[75] *Coke Ovens Risk and Technology Review: Compliance Costs.* D. L. Jones, U.S. Environmental Protection Agency and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2023. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[76] *Economic Impact Analysis for the Proposed National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, Residual Risk and Technology Review; National Emission Standards for Hazardous Air Pollutants for Coke Oven Batteries, Technology Review* (EPA–452/R–23–005). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Research Triangle Park, NC. May 2023.

which are not included in this rulemaking but are sources of HAP at coke facilities. One commenter disagrees with the EPA's decision not to revise the standards for the CBRP. The commenter contends that the EPA must list co-located CBRP as a source under CAA section 112(c)(5) and issue standards.

Response: We agree with the commenters that CBRP should be listed under CAA section 112. However, we need to gather information to support both listing and regulation and intend to do that by end of 2024. In order to evaluate the CBRP effectively under CAA section 112, the EPA would need to use a CAA section 114 request to obtain additional data, which could include requests for testing, to enhance the quality of data used to develop the MACT standards, especially considering the complexity of the sources and the need for quantitative testing. The EPA would not be able to finalize a sound and appropriate rule within 2 years; we estimate that the EPA would need about 3 years or more to complete such a final rule. We intend to send a CAA section 114 information request in 2024 to gather data for the future CAA section 112 regulation.

Comment: A commenter addressed the history of CBRPs as a source category listed and the later de-listing pursuant to CAA section 112(c), and the steps they believe necessary to re-list. The commenter noted that the 40 CFR part 61 subpart L NESHAP limits HAP emissions at CBRPs through equipment leak detection and repair (LDAR) work practice standards. The commenter continued that, based upon the 40 CFR part 61, subpart L requirements, in 2001, the EPA published a document delisting CBRP as a source category under CAA section 112(c). The commenter stated that the delisting decision was based on an EPA study where the EPA concluded that the benzene standard, applicable to all CBRP in the listed source category, would determine the floor for any CAA section 112(d) standard; that the EPA did not know of any realistic "beyond the floor" options at the time of the de-listing; that the EPA believed that further rulemaking would result in no accompanying benefits; and that any new standard that the EPA would develop under CAA section 112(d) would be based on and be comparable to the existing standard both in terms of application and level of stringency. The commenter concluded that in order for the EPA to list CBRP as a new CAA section 112 source category, the Agency must first re-evaluate its earlier delisting decision and provide a rational basis for reversing this longstanding regulatory determination; and explain why regulating CBRP under multiple sets of standards would be authorized and technically sound.

Response: We are not listing the CBRP source category as part of this final rule. As noted in the August 2023 proposed rule preamble, we intend to list CBRP operations, elements of which currently are addressed in the 40 CFR part 61 regulation, as a source category under CAA section 112(c)(5) in a future action. We plan to issue a CAA section 114 request for information regarding the CBRPs in calendar year 2024.

4. What is the rationale for our final approach for the amendments pursuant to these Other Comments?

a. Facility Closures

There are no amendments included in this final rule that were expected to force facilities to close. The BTF standards for HNR facilities without HRSG are not included in this final rule. We are extending the compliance date for the MACT standards by 6 months, for a total of 18 months after publication of the final rule in the **Federal Register**, which should give facilities the time to prepare for the new standards.

b. Listing CBRP Facilities Under CAA Section 112

We did not list CBRP facilities under CAA section 112 in this final rule because we need to gather information to support both listing and regulation and intend to do that by end of 2024. Gathering additional data will enhance the quality of data used to develop the MACT standards, especially considering the complexity of the sources and the need for testing. We intend to list CBRP operations as a source category under CAA section 112(c)(5) in a separate, future regulatory action. We also intend to provide the EPA's rationale for such listing in this separate future action with details of the EPA's plan for future regulatory activities for the CBRP. We intend to send a CAA section 114 information request by end of 2024 to gather data for the future CAA section 112 regulation.

F. Compliance

1. What did we propose?

The proposed compliance date for the new MACT limits in the PQBS NESHAP was 1 year after publication of the final rule. The proposed compliance date for the two BTF emission limits for HNR B/W stack in the PQBS NESHAP was 3 years after publication of the final rule to allow time for the installation of ductwork and control devices. We estimated that the facility would need 3 years to complete this work and comply with the new PM limit due to the unique configuration of the facility. The proposed requirement for periodic compliance testing after the initial compliance demonstration with the required MACT standards was "at the end of each permit cycle."

The proposed compliance date to begin fenceline monitoring under the COB NESHAP was 1 year after the publication date of the final rule; facilities must perform root cause analysis and apply corrective action requirements upon exceedance of an annual average concentration action level starting 3 years after the publication date of the final rule. The proposed compliance date under the COB NESHAP for the revisions to the limits for allowable leaks from doors, lids, and offtakes was 1 year after publication of the final rule.

We proposed the date for complying with the proposed SSM changes to be no later than the effective date of the final rule with the exception of recordkeeping provisions. For recordkeeping under the SSM, we proposed that facilities must comply with this requirement 180 days after the effective date of the final rule. Recordkeeping provisions associated with malfunction events would be effective no later than 180 days after the effective date of the final rule. The EPA proposed to require additional information for recordkeeping of malfunction events, so the additional time was necessary to permit sources to read and understand the new requirements and adjust record keeping systems to comply. The proposed reporting provisions were in accordance with the reporting requirements during normal operations and the semi-annual report of excess emissions.

The proposed date for complying with the proposed electronic reporting submission requirements was 60 days after publication of the final rule for performance tests and 1 year after publication of the final rule or the date the template is made available on the CEDRI website for compliance reports.

2. How did the amendments related to compliance change for the NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks and the NESHAP for Coke Oven Batteries source categories?

We changed the required initial MACT compliance in the final rule to be 18 months after publication of the final rule for all MACT emissions limits in the final rule. For the periodic MACT compliance testing, we are promulgating that periodic testing be conducted "at

the beginning of each permit cycle or every 5 years, whichever is shorter.'' The remaining final promulgation compliance dates for the PQBS and COB NESHAP are unchanged from proposal and are as follows: 1 year after the publication date of the final rule to begin fenceline monitoring; 1 year after publication of the final rule for complying with the revisions to the limits for allowable leaks from doors, lids, and offtakes; 1 year after publication of the final rule for compliance with the 20 percent opacity limit for HNR B/W stacks; and 1 year after publication of the final rule for compliance with the zero leaks from HNR oven doors and pressure monitoring in either ovens or tunnels.

For SSM, the final promulgation compliance dates also are unchanged from proposal and are as follows: no later than the publication date of the final rule except for the recordkeeping provisions, which for startup and shutdown are 180 days after the effective date of the final rule and for malfunction events, the recordkeeping requirements are effective no later than 180 days after publication date of the final rule.

3. What key comments did we receive on compliance and what are our responses?

We received a number of comments on compliance deadlines and compliance methods. Some commenters wanted shorter time periods for the deadlines and some wanted longer time periods. In regard to methods, some commenters wanted to use methods not included in the rules and some commenters wanted methods in the rules removed. The key comments on compliance are summarized in this section along with the EPA's responses to the comments. Other comments received on compliance are summarized along with the EPA's responses in the *Response to Comment*[77] document, which is located in the dockets to the rules.

Comment: A commenter stated they believe that, because Title V permits for coke plants can take years, based on the proposed rule text, facilities can delay the PM test indefinitely based on the timing of a Title V reissuance. The commenter requested that the EPA specify intervals to conduct performance testing in months or years rather than relative to the permit cycle. The commenter also requested that citations 40 CFR 63.7321(a) and 63.7333(a)(2) specify performance testing intervals in months or years to avoid facilities indefinitely delaying the PM emission limits test.

Response: We agree with the commenter and instead have required testing ''at the beginning of each permit cycle or every 5 years, whichever is shorter'' instead of only every ''permit cycle.''

Comment: Two commenters stated that because the EPA does not have enough data to calculate representative limits, facilities may not be able to meet limits without installing new controls. Therefore, facilities need 3 years to comply instead of proposed one year to allow facilities to do testing to evaluate the need for additional controls and to design, purchase, and install new equipment, if needed.

Response: Based on available data, we estimate all facilities will be able to meet MACT floor limits without new controls. We looked at all the data available to the EPA and found that only one test run was slightly higher than the MACT floor for one HAP, but compliance is demonstrated a 3-run average and all the 3-run averages for all the HAP are below the MACT floor limits. These limits are based on the UPL calculated with available data. All the test data results we have (based on 3-run averages) are below the promulgated MACT floor limits. The UPL accounts for variability and provides upper bound limits based on available HAP emissions data for these sources. We have no evidence that indicates these facilities will need to install additional controls to meet these MACT floor limits, and the commenters requesting the full 3 years allowed by the statute did not provide such evidence. Rather, these commenters base their request on the assertion that because, in their view, there is not enough data to prove that additional controls are not needed, the compliance date should be set based on the assumption that they will be. The EPA does not believe this rationale is sufficient to justify delaying compliance for 3 years. In the final rule, the EPA is allowing 18 months to comply with the MACT standards to allow sufficient time for the facilities to conduct the compliance emissions testing and in acknowledgement of the remote possibility that some additional action may be needed by facilities to confirm compliance. In that unlikely event, 18 months will allow additional time for the facility to confirm that they can meet the limit.

4. What is the rationale for our final approach for the amendments related to compliance?

Based on consideration of comments and other relevant information, we are promulgating the same compliance dates as proposed for fenceline monitoring, revised leak limits, SSM, and ERT submissions. We conclude that the final compliance dates and timelines for these requirements are appropriate as described previously in this section of the preamble. However, we are promulgating that periodic testing for the MACT limits be conducted ''at the beginning of each permit cycle or every 5 years, whichever is shorter,'' to account for permit periods that can extend for many years beyond 5 years due to delays in permit reviews and to establish compliance at the beginning of the permit cycle because permit conditions may change from the previous permit cycle.

For the MACT standards, as described in responses in previous subsection of this preamble, we made some adjustments to the dates and timelines based on consideration of comments. We conclude that the final compliance dates and timelines for the MACT standards are appropriate as described previously in this section of the preamble.

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

The following analyses of costs and benefits, and environmental, economic, and environmental justice impacts are presented for the purpose of providing the public with an understanding of the potential consequences of this final action. The EPA notes that analysis of such impacts is distinct from the determinations finalized in this action under CAA section 112, which are based on the statutory factors the EPA discussed in sections II.A., IV.B.1., and IV.C.

A. What are the affected facilities?

The affected sources are facilities in the Coke PQBS source category and the COB source category. These sources include any facility engaged in producing coke from coal, where either the ByP process or the HNR process is used. The coke production processes include pushing coke out of ovens, quenching hot coke with water; and, for HNR facilities only, also recovering heat from hot coke oven exhaust to produce steam and, in some cases, also power. In the coke-making process, the production

[77] *Summary of Public Comments and Responses for Coke Ovens: Pushing, Quenching, and Battery Stacks Residual Risk and Technology Review, and Coke Oven Batteries Periodic Technology Review.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–02), Research Triangle Park, North Carolina. May 1, 2024.

of coke is achieved by the thermal distillation of coal in oven chambers made of brick or other heat-resistant material at temperatures approaching 2,000 °F (1,100 °C) to separate the gas, water, and tar in coal. The coke product is used as a fuel and source of carbon used in steelmaking. Based on the information we have, there are 11 operating coke manufacturing facilities subject to these NESHAP and one idle facility.

B. What are the air quality impacts?

There are no measurable air quality impacts from this rule that can be guaranteed. However, the promulgated 21 new MACT floor standards for the PQBS NESHAP source category will ensure that emissions of these HAP do not increase and help ensure that air quality in the vicinity of coke oven facilities does not degrade over time. In addition, the promulgated reduction in allowable emissions from coke oven doors, lids, and offtakes in the COB source category will ensure that emissions of HAP do not increase and that air quality does not degrade over time. We also are promulgating fenceline monitoring, which would improve compliance assurance and potentially result in some unquantified additional emission reductions. Lastly, we also are requiring that standards apply during periods of SSM.

The EPA has not quantified any benefits associated with this final rule, because all covered facilities are expected to already have HAP emissions levels that are below the final limits, based on facility data available to the EPA. However, the EPA anticipates that this final rule's new requirements will increase the likelihood of facilities successfully detecting any HAP emissions in excess of the specified thresholds, allowing for earlier corrective action and thus preventing pollution increases that could otherwise occur. The potential public health benefits associated with such prevention are difficult to estimate, given that they correspond to hypothetical scenarios of emissions beyond those indicated by current facility data, and are thus not quantified in the EPA's analysis

C. What are the cost impacts?

Cost impacts are due to the required source testing that includes: testing every 5 years to demonstrate compliance with the promulgated MACT floor standards for PQBS; weekly opacity testing of HNR B/W heat stacks; daily visible leak testing of HNR ovens doors; and fenceline monitoring at ByP facilities. The total costs for the rules are estimated to be $4.0 million per year for the 11 operating facilities ($2023), with $500,000 per facility, on average for the five HNR facilities and $250,000 per facility, on average, for the 6 ByP facilities. The compliance testing is estimated to cost $3.3 million total for the 11 operating facilities, with $300,000 per facility on average. The HNR B/W stack opacity testing is estimated to be $22,000 total for the five HNR facilities, with $4,400 per facility on average. The HNR daily door leak testing with EPA Method 303A is estimated to be $105,000 total for the five HNR facilities, with $21,000 per facility on average. The fenceline monitoring costs are estimated to be $640,472 for the six ByP facilities, with $107,000 per facility on average.[78]

D. What are the economic impacts?

The EPA prepared an EIA for the final rule,[79] which is available in the docket for this action. This final rule is not a significant regulatory action under Executive Order 12866 section 3(f)(1), as amended by Executive Order 14094, since it is not likely to have an annual effect on the economy of $200 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities. The EIA analyzed the potential cost impacts under the promulgated requirements, and the projected impacts are presented for the 2025–2036 time period. The EIA analyzes the projected impacts of the final rule in order to better inform the public about its potential effects.

If the compliance costs, which are key inputs to an EIA, are small relative to the receipts of the affected industries, then the impact analysis may consist of a calculation of annual (or annualized) costs as a percent of sales for affected parent companies. This type of analysis is often applied when a partial equilibrium or more complex EIA approach is deemed unnecessary given the expected size of the impacts. The annualized cost per sales for a company represents the maximum price increase in the affected product or service needed for the company to completely recover the annualized costs imposed by the regulation. We conducted a cost-to-sales analysis to estimate the economic impacts of this promulgation, given that the equivalent annualized value (EAV), which represents a flow of constant annual values that would yield a sum equivalent to the present value of the compliance costs over the period 2025–2036. The EAV is estimated at $3.9 million using a 2 percent discount rate, $3.9 million using a 3 percent discount rate, and $3.7 million using a 7 percent discount rate in 2022 dollars, which is small relative to the revenues of the steel industry (of which the coke industry is a part).

There are five parent companies that operate active coke facilities: Cleveland-Cliffs, Inc. U.S. Steel, SunCoke Energy, Inc., DTE Energy Company (EES Coke in River Rouge (Detroit), Michigan), and the Drummond Company (ABC Coke in Tarrant City, Alabama). Each reported greater than $1 billion in revenue in 2021. The EPA estimated the annualized compliance cost each firm is expected to incur and determined the estimated cost-to-sales ratio for each firm is less than 0.2 percent. James C. Justice Companies owns the idled Bluestone Coke facility, and the EPA estimated the compliance cost-to-sales ratio, if the facility were to resume operations, would be less than 0.1 percent. Therefore, the projected economic impacts of the expected compliance costs of the promulgation are likely to be small. The EPA also conducted a small business screening to determine the possible impacts of the promulgated rule on small businesses. Based on the Small Business Administration size standards and business information gathered by the EPA, this source category has one small business, which would not be subject to significant cost by the promulgated requirements.

In this section of the preamble and in the EIA [80] for this final rule, we focus on the compliance cost impacts to the firms who own affected facilities. Other than the simple cost-to-sales analysis described earlier in this section, we do

[78] *Coke Ovens Risk and Technology Review: Compliance Costs.* D.L. Jones, U.S. Environmental Protection Agency and G.E. Raymond, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[79] *Economic Impact Analysis for the Final National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, Residual Risk and Technology Review; National Emission Standards for Hazardous Air Pollutants for Coke Oven Batteries, Technology Review* (EPA–452/R–23–005). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Research Triangle Park, NC. May 2024.

[80] *Economic Impact Analysis for the Final National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, Residual Risk and Technology Review; National Emission Standards for Hazardous Air Pollutants for Coke Oven Batteries, Technology Review* (EPA–452/R–23–005). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Research Triangle Park, NC. May 2024.

not have the data or methods to assess potential price impacts or distributional consequences of the potential pass-through of regulatory costs to consumers of intermediate and final products for which coke is an input.

With regard to emissions reductions, this rule has no quantifiable emission reductions. At this time, since these impacts are uncertain and not quantifiable, the EPA is unable to assess the total costs, benefits, and distributional consequences of these actions at the community level.

For more information on the potential benefits of this rulemaking, see section V.E. of this preamble. For additional discussion on the environmental justice analyses conducted and their results, see section V.F.

E. What are the benefits?

The promulgated amendments revise the standards such that they apply at all times, which includes periods of SSM, and may result in some unquantified additional emissions reductions (and associated potential public health benefits) compared to historic or current emissions (*i.e.,* before the SSM exemptions were removed). Additional elements of the promulgated amendments, including MACT standards for previously unregulated HAP emissions, lower ByP coke oven emission leak limits, ensuring zero HNR door leaks, and HNR B/W stack opacity limits also may result in unquantified additional emissions reductions (and associated potential public health benefits) that improve accountability and compliance assurance. Also, the promulgated fenceline monitoring will improve compliance assurance and potentially result in some unquantified additional emission reductions (and associated public health benefits).

The EPA has not quantified any benefits associated with this final rule because all covered facilities are expected to already have HAP emissions levels that are below the final limits, based on facility data available to the EPA. However, the EPA anticipates that this final rule's new requirements will increase the likelihood of facilities successfully detecting any HAP emissions in excess of the specified thresholds, allowing for earlier corrective action and thus preventing pollution increases that could otherwise occur. The potential public health benefits associated with such prevention are difficult to estimate, given that they correspond to hypothetical scenarios of emissions beyond those indicated by current facility data, and are thus not quantified in EPA's analysis.

F. What analysis of environmental justice did we conduct?

For purposes of analyzing regulatory impacts, the EPA relies upon its June 2016 "*Technical Guidance for Assessing Environmental Justice in Regulatory Analysis,*" [81] which provides recommendations that encourage analysts to conduct the highest quality analysis feasible, recognizing that data limitations, time, resource constraints, and analytical challenges will vary by media and circumstance. The *Technical Guidance* [82] states that a regulatory action may involve potential environmental justice concerns if it could: (1) create new disproportionate impacts on communities with environmental justice concerns; (2) exacerbate existing disproportionate impacts on communities with environmental justice concerns; or (3) present opportunities to address existing disproportionate impacts on communities with environmental justice concerns through this action under development.

The EPA's environmental justice *Technical Guidance* [83] states that "[t]he analysis of potential environmental justice concerns for regulatory actions should address three questions: (A) Are there potential environmental justice concerns associated with environmental stressors affected by the regulatory action for population groups of concern in the baseline? (B) Are there potential environmental justice concerns associated with environmental stressors affected by the regulatory action for population groups of concern for the regulatory option(s) under consideration? (C) For the regulatory option(s) under consideration, are potential environmental justice concerns created or mitigated compared to the baseline?"

The environmental justice analysis is presented for the purpose of providing the public with as full as possible an understanding of the potential impacts of this final action. The EPA notes that analysis of such impacts is distinct from the determinations finalized in this action under CAA sections 112, which are based solely on the statutory factors the EPA is required to consider.

1. Coke Ovens: Pushing, Quenching, and Battery Stacks Source Category Demographics

The EPA examined the potential for the 12 coke oven facilities to disproportionately impact residents in certain demographic groups living in proximity to the facilities. Specifically, the EPA analyzed how demographics and risk are distributed under the PQBS NESHAP. The methodology and detailed results of the demographic analysis are presented in the document titled *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final,*[84] which is available in the docket for this action.

To examine the potential for disproportionate impacts on certain population groups, the EPA conducted a proximity demographic analysis and a risk-based demographic analysis. A proximity demographic analysis is an assessment of individual demographic groups in the total population living within 10 km (~6.2 miles) and 50 km (~31 miles) of the affected facilities. A risk-based demographic analysis is an assessment of risks to individual demographic groups in the population living within 10 km and 50 km of the facilities. In this preamble, we focus on the 10 km radius for the demographic analysis because it encompasses all the facility MIR locations and captures 99 percent of the population with cancer risks greater than or equal to 1-in-1 million from coke ovens PQBS source category emissions. The results of the proximity analysis for populations living within 50 km are included in the document titled *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final,*[85] which is available in the docket for this action (EPA–HQ–OAR–2002–0085).

The total population, population percentages, and population count for each demographic group for the entire U.S. population is shown in the column titled "Nationwide Average for Reference" in table 11 of this preamble.

[81] *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis.* U.S. Environmental Protection Agency. June 2016. Quote is from Section 3—Key Analytic Considerations, page 11. *https://www.epa.gov/sites/default/files/2016-06/documents/ejtg_5_6_16_v5.1.pdf.*

[82] *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis.* U.S. Environmental Protection Agency. June 2016. Quote is from Section 3—Key Analytic Considerations, page 11. *https://www.epa.gov/sites/default/files/2016-06/documents/ejtg_5_6_16_v5.1.pdf.*

[83] *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis.* U.S. Environmental Protection Agency. June 2016. Quote is from Section 3—Key Analytic Considerations, page 11. *https://www.epa.gov/sites/default/files/2016-06/documents/ejtg_5_6_16_v5.1.pdf.*

[84] *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final.* U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[85] *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final.* U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

These national data are provided as a frame of reference to compare to the results of the proximity analysis and the risk-based analysis.

The results of the category proximity demographic analysis (see table 11, column titled "Proximity Analysis for Pop. Living within 10 km of Coke Oven Facilities") indicate that a total of 1.3 million people live within 10 km of the 12 coke oven facilities. The percent of the population that is African American is more than double the national average (28 percent versus 12 percent). The percent of people living below the poverty level is almost double the national average (21 percent versus 13 percent) and the percent of people living below twice the poverty level is above the national average (41 percent versus 30 percent).

The PQBS source category risk-based demographic analysis (see table 11 in this preamble), which focuses on populations that have higher cancer risks, indicates that there are approximately 2,500 people with cancer risks greater than or equal to 1-in-1 million living around two PQBS facilities, one in Pennsylvania and one in Virginia. Over 99 percent of the population with cancer risks greater than or equal to 1-in-1 million are living around the Virginia facility; therefore, the demographics for the population living around this facility dominates the risk-based demographics. The population with cancer risks greater than or equal to 1-in-1 million due to emissions from the PQBS source category is predominantly white (83 percent versus 60 percent nationally).[86] The population with cancer risks greater than or equal to 1-in-1 million for emissions from the PQBS source category also are above the national average for: (1) the percent of the population living below poverty (15 percent versus 13 percent); (2) the percent of the population living below twice the poverty level (34 percent versus 30 percent); and (3) the percent of the population that is over 25 without a high school diploma (23 percent versus 12 percent). Note that no reduction in actual emissions or risk is expected for the PQBS source category as a result of these final actions.

TABLE 11—SOURCE CATEGORY: DEMOGRAPHICS OF POPULATIONS LIVING WITHIN 10 km OF FACILITIES WITH CANCER RISK GREATER THAN OR EQUAL TO 1-IN-1 MILLION FROM EMISSIONS FROM THE PQBS SOURCE CATEGORY COMPARED TO THE NATIONAL AVERAGE AND PROXIMITY DEMOGRAPHICS

Demographic group	Nationwide average for reference	Proximity analysis for population living within 10 km of coke oven facilities	Cancer risk ≥1-in-1 million within 10 km of coke oven facilities
Total Population	330M	1.3M	2.5K
Number of Facilities	.....	12	2
Race and Ethnicity by Percent/Number of People			
White	60%	58%	83%
	196M	737K	2K
African American	12%	28%	10%
	40M	359K	300
Native American	0.6%	0.2%	0%
	2M	3K	0
Hispanic or Latino (includes white and nonwhite)	19%	10%	2%
	63M	133K	<100
Other and Multiracial	9%	4%	5%
	29M	47K	100
Income by Percent/Number of People			
Below Poverty Level	13%	21%	15%
	42M	267K	400
Below 2x Poverty Level	30%	41%	34%
	100M	524K	900
Education by Percent/Number of People			
Over 25 and without a High School Diploma	12%	12%	23%
	38M	152K	600
Over 25 and with a High School Diploma	88%	88%	77%
	292M	1.1M	2K
Linguistically Isolated by Percent/Number of People			
Linguistically Isolated	5%	3%	2%

[86] Note, since there are fewer than 100 people with a noncancer hazard index greater than or equal to 1 living around one facility, we did not conduct risk-based demographics for noncancer.

TABLE 11—SOURCE CATEGORY: DEMOGRAPHICS OF POPULATIONS LIVING WITHIN 10 km OF FACILITIES WITH CANCER RISK GREATER THAN OR EQUAL TO 1-IN-1 MILLION FROM EMISSIONS FROM THE PQBS SOURCE CATEGORY COMPARED TO THE NATIONAL AVERAGE AND PROXIMITY DEMOGRAPHICS—Continued

Demographic group	Nationwide average for reference	Proximity analysis for population living within 10 km of coke oven facilities	Cancer risk ≥1-in-1 million within 10 km of coke oven facilities
	17M	33K	<100

Notes: The nationwide population count and all demographic percentages are based on the Census' 2016–2020 American Community Survey five-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts are based on the 2020 Decennial Census block populations. To avoid double counting, the "Hispanic or Latino" category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, African American, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person also may have identified as in the Census.

2. Coke Oven Whole-Facility Demographics

As described in section IV.B.5. of this preamble, we assessed the facility-wide (or "whole-facility") risks for 12 coke oven facilities in order to compare the PQBS NESHAP source category risk to the whole facility risks. This whole-facility demographic analysis characterizes the risks communities face from all HAP sources at coke oven facilities. The whole facility risk assessment includes all sources of HAP emissions at each facility (described in the memorandum *HAP Emissions from Coke Oven Facilities—Final Rule*[87]). Note, no reduction in actual emissions or risk is expected at the whole facility level.

The whole-facility demographic analysis is an assessment of individual demographic groups in the total population living within 10 km (~6.2 miles) and 50 km (~31 miles) of the facilities. In this preamble, we focus on the 10 km radius for the demographic analysis because it encompasses all the facility MIR locations and captures 99 percent of the population with cancer risks greater than or equal to 1-in-1 million from the PQBS NESHAP source category emissions. The results of the whole-facility demographic analysis for populations living within 50 km are included in the document titled *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final,*[88] which is available in the docket for this action.

While the source category population with risks ≥ 1-in-1 million (shown in table 11 of this preamble) is disproportionately White (83 percent living within 10 km of coke oven facilities *v.* 60 percent nationally), the whole-facility population with risks ≥ 1-in-1 million (shown in table 12 of this section) is disproportionately African American (30 percent living within 10 km of coke oven facilities *v.* 12 percent nationally). Specifically, the whole-facility population with risk greater than 1-in-1 million is 30 percent African American compared to the national average of 12 percent. In addition, the percentage of the whole-facility population living within 10 km of coke oven facilities with cancer risks ≥ 1-in1 million that is living below the poverty level (17 percent) and also the population living below two times the poverty level (36 percent) are above the corresponding national average (13 percent and 30 percent).

TABLE 12—WHOLE-FACILITY: DEMOGRAPHICS OF POPULATIONS LIVING WITHIN 10 km OF FACILITIES WITH CANCER RISK GREATER THAN OR EQUAL TO 1-IN-1 MILLION FROM COKE OVEN WHOLE-FACILITY EMISSIONS COMPARED TO THE NATIONAL AVERAGE AND PROXIMITY DEMOGRAPHICS

Demographic group	Nationwide average for reference	Proximity analysis for pop. living within 10 km of coke oven facilities	Cancer risk ≥1-in-1 million within 10 km of coke oven facilities
Total Population	330M	1.3M	491K
Number of Facilities		12	7
Race and Ethnicity by Percent/Number of People			
White	60%	58%	62%
	196M	737K	303K
African American	12%	28%	30%
	40M	359K	149K
Native American	0.6%	0.2%	0.1%
	2M	3K	500
Hispanic or Latino (includes white and nonwhite)	19%	10%	4%
	63M	133K	21K
Other and Multiracial	9%	4%	3%

[87] *HAP Emissions from Coke Oven Facilities—Final Rule.* D.L. Jones, U.S. Environmental Protection Agency; and G.E. Raymond and E. Kerr, RTI International. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 1, 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

[88] *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final.* U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

TABLE 12—WHOLE-FACILITY: DEMOGRAPHICS OF POPULATIONS LIVING WITHIN 10 km OF FACILITIES WITH CANCER RISK GREATER THAN OR EQUAL TO 1-IN-1 MILLION FROM COKE OVEN WHOLE-FACILITY EMISSIONS COMPARED TO THE NATIONAL AVERAGE AND PROXIMITY DEMOGRAPHICS—Continued

Demographic group	Nationwide average for reference	Proximity analysis for pop. living within 10 km of coke oven facilities	Cancer risk ≥1-in-1 million within 10 km of coke oven facilities
	29M	47K	17K
Income by Percent/Number of People			
Below Poverty Level	13%	21%	17%
	42M	267K	84K
Below 2x Poverty Level	30%	41%	36%
	100M	524K	176K
Education by Percent/Number of People			
Over 25 and without a High School Diploma	12%	12%	8%
	38M	152K	40K
Over 25 and with a High School Diploma	88%	88%	92%
	292M	1.1M	451K
Linguistically Isolated by Percent/Number of People			
Linguistically Isolated	5%	3%	1%
	17M	33K	6K

Notes: The nationwide population count and all demographic percentages are based on the Census' 2016–2020 American Community Survey five-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts are based on the 2020 Decennial Census block populations. To avoid double counting, the "Hispanic or Latino" category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, African American, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.

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

This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The EPA's assessment of the potential impacts to human health from emissions at existing coke ovens sources in the PQBS source category are discussed in section IV.B. and IV.C. of this preamble.

A total of 281,000 children ages 0–17 live within 10 km of Coke Oven facilities, which is 22 percent of the total population within 10 km of Coke Ovens. This percentage is the same as the national percentage for children ages 0–17 (22 percent). Due to emissions from the PQBS source category, there are approximately 200 children (0–17 years) with increased lifetime cancer risks of greater than or equal to 1-in-1 million. This represents 8 percent of the total population living of 2,500 people within 10 km of coke ovens that have an increased lifetime cancer risk greater than or equal to 1-in-1 million due to PQBS emissions (see Table 11). Therefore, the number of children ages 0–17 living near these facilities is not disproportionately high.

Children breathe more air per unit of body weight than adults and are more susceptible to the impacts of mutagenic carcinogens and neurodevelopmental toxicants, both of which are found in COE. Because this action sets MACT standards for Hg, which is a known neurodevelopmental toxicant and was previously unregulated for this source category, and because the rule includes lower leak limits for coke ovens to minimize fugitive releases of COE, the final standards will prevent, and possibly reduce, the exposure of children to both cancer and noncancer health effects. In addition, the fenceline monitoring work practice required in the final rule, where benzene is used as a surrogate for COE, also may prevent and possibly reduce exposure of children to mutagenic carcinogens and neurodevelopmental toxicants.

The methodology and detailed results of the demographic analysis are presented in a technical report, *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final,*[89] available in the docket for this action.

[89] *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final.* U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 2024.

VI. Statutory and Executive Order Reviews

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

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

This action is a "significant regulatory action" as defined under Executive Order 12866, as amended by Executive Order 14094. Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for Executive Order 12866 review. Documentation of any changes made in response to the Executive Order 12866 review is available in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, *Economic Impact Analysis for the Final National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, Residual Risk and Technology Review; National Emission Standards for Hazardous Air Pollutants for Coke*

Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

Oven Batteries Technology Review,[90] is available in the dockets EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

B. Paperwork Reduction Act (PRA)

The information collection activities in this promulgated rule have been submitted for approval to OMB under the PRA. The ICR documents that the EPA prepared have been assigned EPA ICR numbers 1995.10 and 1362.15. You can find a copy of the ICRs in the dockets for this rule, and they are briefly summarized here.

We are promulgating amendments to the PQBS NESHAP that require compliance testing for 17 MACT limits and to the COB NESHAP that require fenceline monitoring. Furthermore, the amendments also require electronic reporting and remove the SSM exemptions in both NESHAP. We are also incorporating other revisions (*e.g.,* facility counts) that affect reporting and recordkeeping for coke oven facilities. This information would be collected to assure compliance with the CAA.

For ICR: NESHAP for PQBS (40 CFR part 63, subpart CCCCC) (OMB Control Number 2060–0521)

Respondents/affected entities: PQBS source category.

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

Estimated number of respondents: 12 facilities.

Frequency of response: One time.

Total estimated burden: 26,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $3,490,000 (per year), which includes $107,000 annualized capital, or operation and maintenance costs. Of the total cost, $950,000 (per year) is for this promulgation, and $2,433,000 is for other costs related to continued compliance with the NESHAP and the operation and maintenance of leak detectors and continuous opacity monitors. The total rule costs reflect an overall increase of $540,000 (per year) from the previous ICR due to the compliance with 17 additional MACT floor emission limits, transition to electronic reporting, and elimination of SSM requirements.

For ICR: NESHAP for COB (40 CFR part 63, subpart L) (OMB Control Number 2060–0253)

Respondents/affected entities: COB source category.

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

Estimated number of respondents: 12 facilities.

Frequency of response: One time.

Total estimated burden: The annual recordkeeping and reporting burden for facilities to comply with all of the requirements in the NESHAP is estimated to be 2,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $6,650,000 (per year), which includes $0 annualized capital, or operations and maintenance costs. Of the total cost, $270,000 (per year) is for this promulgation and $6,380,000 is for other costs related to continued compliance with the NESHAP. The total rule costs reflect a decrease of $230,000 (per year) from the previous ICR, due to revised HNR facility counts, transition to electronic reporting, addition of fenceline monitoring, and elimination of SSM requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Small entities that may be impacted by this rulemaking include Coke facilities located within an integrated iron and steel manufacturing facility under NAICS 331110 (Iron and Steel Mills and Ferroalloy Manufacturing) with 1500 or fewer employees, or facilities under NAICS 324199 (All Other Petroleum and Coal Products Manufacturing, with 500 or fewer workers. None of the facilities currently in operation that are potentially affected by this rulemaking promulgation under these size definitions are ''small businesses'' and therefore will not have a significant economic impact. Additional details of the analysis can be found in the EIA[91] prepared for this rule.

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. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. No tribal governments own facilities subject to these NESHAP. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments for PQBS source category are contained in section IV. of this preamble and further documented in *The Residual Risk Assessment for the Coke Ovens: Pushing, Quenching, and Battery Stack Source Category in Support of the 2024 Risk and Technology Review Final*

[90] *Economic Impact Analysis for the Final National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, Residual Risk and Technology Review; National Emission Standards for Hazardous Air Pollutants for Coke Oven Batteries, Technology Review* (EPA–452/R–23–005). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Research Triangle Park, NC. May 2024.

[91] *Economic Impact Analysis for the Final National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, Residual Risk and Technology Review; National Emission Standards for Hazardous Air Pollutants for Coke Oven Batteries, Technology Review* (EPA–452/R–23–005). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Research Triangle Park, NC. May 2024.

Rule,[92] available in the docket for this action (EPA–HQ–OAR–2002–0085).

The EPA's *Policy on Children's Health* [93] applies to this action. Although we did not perform a risk assessment of the COB source category in this action, we note that COE, which is primarily emitted from this source category, has a mutagenic mode of action; therefore, changes to the standards for the COB NESHAP under the technology review could reduce the exposure of children to mutagens. In addition, this action sets MACT standards for Hg, which is a known neurodevelopmental toxicant and was previously unregulated for this source category; therefore, the new Hg standards will provide additional protection for the exposure of children to noncancer impacts as well. Additional information on how the Policy was applied is available under "Children's Environmental Health" in the **SUPPLEMENTARY INFORMATION** section of this preamble.

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

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We have concluded this action is not likely to have any adverse energy effects.

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

This action involves technical standards. Therefore, the EPA conducted searches for the RTR for the PQBS NESHAP and the NESHAP for COB through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. For COB NESHAP, we conducted searches for EPA Methods 1, 2, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, 9, 18, 22 of 40 CFR part 60, appendix A, EPA Methods 303, 303A of 40 CFR part 63, appendix A. No applicable VCS were identified for EPA Methods 2F, 2G, 5D, 22, 303, and 303A. For PQBS NESHAP, searches were conducted for EPA Methods 1, 2, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, 9, 23, 26, 26A, 29 of 40 CFR part 60, appendix A, EPA Methods 316 and 320 40 CFR part 63, appendix A. No applicable VCS were identified for EPA Methods 2F, 2G, 5D, and 316.

During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for a particular VCS.

The EPA incorporates by reference, for 40 CFR part 63, subpart CCCCC, the VCS ANSI/ASME PTC 19.10–1981 Part 10, "Flue and Exhaust Gas Analyses," a method for quantitatively determining the gaseous constituents of exhausts resulting from stationary combustion and includes a description of the apparatus, and calculations which are used in conjunction with Performance Test Codes to determine quantitatively, as an acceptable alternative to EPA Method 3B of appendix A to 40 CFR part 60 for the manual procedures only and not the instrumental procedures. The manual method segment of the oxygen determination is performed through the absorption of oxygen. This VCS may be obtained from *https://webstore.ansi.org/*or from the ANSI Headquarters at 1899 L Street NW, 11th floor, Washington, DC 20036.

The EPA previously received approval to incorporate this method in § 63.309 (subpart L), where it appears in the amendatory text of this rule.

The EPA promulgates to incorporate by reference, for 40 CFR part 63, subparts CCCCC and L, the VCS ASTM D7520–16, "Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere" is an acceptable alternative to EPA Method 9 with the following caveats:

- During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520–16, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).
- You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520–16.
- You must follow the record keeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.
- You or the DCOT vendor must have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.

This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software and operator in accordance with ASTM D7520–16 and this letter is on the facility, DCOT operator, and DCOT vendor.

The ASTM D7520–16 method describes procedures to determine the opacity of a plume, using digital imagery and associated hardware and software, where opacity is caused by PM emitted from a stationary point source in the outdoor ambient environment. The opacity of emissions is determined by the application of a DCOT that consists of a digital still camera, analysis software, and the output function's content to obtain and interpret digital images to determine and report plume opacity.

The EPA promulgates to incorporate by reference for 40 CFR part 63, subpart L, the VCS ASTM D6420–18, "Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry" is an acceptable alternative to EPA Method 18 only when the target compounds are all known and the target compounds are all listed in ASTM D6420 as measurable. This method should not be used for methane and ethane because atomic mass is less than 35. ASTM D6420 should never be specified as a total VOC method. This test method employs a direct interface gas chromatograph/mass spectrometer to identify and quantify 36 volatile organic compounds, however, the use of the method in this rule is only applicable to benzene, toluene, and xylene.

[92] *Residual Risk Assessment for the Coke Ovens: Pushing, Quenching, and Battery Stacks Source Category in Support of the 2024 Risk and Technology Review Final Rule.* U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, NC. May 2024. Docket No. EPA–HQ–OAR–2002–0085.

[93] See *https://www.epa.gov/children/childrens-health-policy-and-plan#A1.*

The EPA promulgates to incorporate by reference, for 40 CFR part 63, subpart CCCCC, the VCS ASTM D6784–16, ''Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro 3 Method)'' is an acceptable alternative to EPA Method 29 (portion for Hg only) as a method for measuring Hg. This method applies to concentrations of approximately 0.5–100 $\mu g/Nm^3$. This test method describes equipment and procedures for obtaining samples from effluent ducts and stacks, equipment and procedures for laboratory analysis, and procedures for calculating results.

The EPA promulgates to incorporate by reference, for 40 CFR part 63, subpart CCCCC, the VCS ASTM D6348–12 (2020), ''Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy,'' as an acceptable alternative to EPA Method 320 of appendix A to 40 CFR part 63 with caveats requiring inclusion of selected annexes to the standard as mandatory. The ASTM D6348–12 (2020) method is an extractive FTIR spectroscopy-based field test method and is used to quantify gas phase concentrations of multiple target compounds in emission streams from stationary sources. This field test method provides near real time analysis of extracted gas samples. In the September 22, 2008, NTTAA summary, ASTM D6348–03(2010) was determined equivalent to EPA Method 320 with caveats. ASTM D6348–12 (2020) is a revised version of ASTM D6348–03(2010) and includes a new section on accepting the results from direct measurement of a certified spike gas cylinder, but still lacks the caveats we placed on the D6348–03(2010) version. We are finalizing that the test plan preparation and implementation in the Annexes to ASTM D 6348–12 (2020), annexes Al through A8 are mandatory; and in ASTM D6348–12 (2020) Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). We are finalizing that, in order for the test data to be acceptable for a compound, %R must be 70% > R ≤ 130%. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

$$Reported\ Results = \frac{Stack\ Concentration}{\%R} = 100$$

The ASTM methods are available at ASTM International at *www.astm.org* or 1100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, telephone number: (610) 832–9500, fax number: (610) 832–9555 at *service@astm.org.*

Additional information for the VCS search and determinations can be found in the memorandum *Voluntary Consensus Standard Results for Coke Ovens: Pushing, Quenching and Battery Stacks: National Emission Standards for Hazardous Air Pollutants* and *Voluntary Consensus Standard Results for Coke Oven Batteries: National Emission Standards for Hazardous Air Pollutants for Coke Oven Batteries,* available in the EPA–HQ–OAR–2002–0085, EPA–HQ–OAR–2003–0051 dockets for the promulgated rule.

The EPA is also incorporating by reference, for 40 CFR part 63, subpart L, the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume IV: Meteorological Measurements, Version 2.0 (Final), March 2008 (EPA–454/B–08–002). The Quality Assurance Handbook for Air Pollution Measurement Systems; Volume IV: Meteorological Measurements is an EPA developed guidance manual for the installation, operation, maintenance and calibration of meteorological systems including the wind speed and direction using anemometers, temperature using thermistors, and atmospheric pressure using aneroid barometers, as well as the calculations for wind vector data for on-site meteorological measurements. This VCS may be obtained from the EPA's National Service Center for Environmental Publications (*https://www.epa.gov/nscep*).

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on communities with environmental justice concerns.

As discussed in section V.F. of this preamble, the population with risks greater than or equal to 1-in-1 million due to emissions from all sources of HAP at coke oven facilities is disproportionately (30 percent) African American compared to the national average (12 percent African American). About 83 percent of the 491,000 people with a cancer risk greater than or equal to 1-in-1 million live within 10 km of 3 facilities—two in Alabama and one in Pennsylvania. The population with cancer risks greater than or equal to 1-in-1 million living within 10 km of the two facilities in Alabama is 56 percent African American, which is significantly higher than the national average of 12 percent. In addition, the population with risks ≥ 1-in-1 million due to emissions from all sources of HAP at coke oven facilities that is below the poverty level (17 percent) is above the national average (13 percent).

The EPA believes that this action is not likely to change existing disproportionate and adverse effects on communities with environmental justice concerns. Although the promulgated measures are not estimated to decrease actual emissions or the number of people who have risks greater than or equal to 1-in-1 million due to HAP emissions (see table 12 of this preamble), this action will limit allowable emissions from coke ovens sources in 40 CFR part 63, subparts CCCCC and L. The EPA also is promulgating that coke oven facilities conduct fenceline monitoring for benzene and report these data electronically to the EPA. The fenceline monitoring requirements will help ensure that emissions from sources listed under CAA section 112 are being appropriately controlled. The fenceline monitoring results will be publicly available on a quarterly basis to ensure transparency and, consequently, provide fenceline communities with greater access to information about potential exposures.

The information supporting this Executive Order review is described in section V.F. of this preamble and in the document *Analysis of Demographic*

Factors for Populations Living Near Coke Oven Facilities—Final[94] located in the docket for this rule (EPA–HQ–OAR–2002–0085).

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

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

Michael S. Regan,
Administrator.

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

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

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

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

Subpart A—General Provisions

■ 2. Section 63.14 is amended by revising paragraphs (f)(1), (i)(88), (96), (105), and (110), the introductory text of paragraph (o), and paragraph (o)(3) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(f) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981; IBR approved for §§ 63.309(k); 63.365(b); 63.457(k); 63.772(e) and (h); 63.865(b); 63.997(e); 63.1282(d) and (g); 63.1450(a), (b), (d), (e), and (g); 63.1625(b); table 5 to subpart EEEE; §§ 63.3166(a); 63.3360(e); 63.3545(a); 63.3555(a); 63.4166(a); 63.4362(a); 63.4766(a); 63.4965(a); 63.5160(d); table 4 to subpart UUUU; table 3 to subpart YYYY; table 4 to subpart AAAAA; § 63.7322(b); table 5 to subpart DDDDD; §§ 63.7822(b); 63.7824(e); 63.7825(b); 63.8000(d); table 4 to subpart JJJJJ; table 4 to subpart KKKKK; §§ 63.9307(c); 63.9323(a); 63.9621(b) and (c);table 4 to subpart SSSSS; tables 4 and 5 of subpart UUUUU; table 1 to subpart ZZZZZ; §§ 63.11148(e); 63.11155(e); 63.11162(f); 63.11163(g); table 4 to subpart JJJJJJ; §§ 63.11410(j); 63.11551(a); 63.11646(a); 63.11945.

* * * * *

(i) * * *

(88) ASTM D6348–12 (Reapproved 2020), Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012; IBR approved for §§ 63.365(b); 63.7322(d), (e), and (g); 63.7825(g) and (h).

* * * * *

(96) ASTM D6420–18, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, approved November 1, 2018, IBR approved for §§ 63.305(c); 63.987(b); 63.997(e); 63.2354(b); table 5 to subpart EEEE; §§ 63.2450(j); 63.8000(d).

* * * * *

(105) ASTM D6784–16, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), Approved March 1, 2016; IBR approved for §§ 63.1450(d); 63.9621; table 5 to subpart UUUUU; appendix A to subpart UUUUU; § 63.7322(c).

* * * * *

(110) ASTM D7520–16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere, approved April 1, 2016; IBR approved for §§ 63.301; 63.305(c) and (f); 63.309(d), (j), and (m); 63.311(d); 63.1450(c) (e), and (g); 63.1453(h); 63.1625(b); 63.7334(a); §§ 63.7823(c) through (f), 63.7833(g); table 3 to subpart LLLLL; § 63.11423(c).

* * * * *

(o) * * *

(3) EPA–454/B–08–002, Quality Assurance Handbook for Air Pollution Measurement Systems, Volume IV: Meteorological Measurements, Version 2.0 (Final), March 2008, IBR approved for §§ 63.314(b); 63.7792(b).

* * * * *

■ 3. Effective July 15, 2024, § 63.14 is amended by revising paragraphs (f)(1) and (i)(89) and (96) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(f) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981; §§ 63.116(c) and (h); 63.128(a); 63.145(i); 63.309(k); 63.365(b); 63.457(k); 63.490(g); 63.772(e) and (h); 63.865(b); 63.997(e); 63.1282(d) and (g); 63.1450(a), (b), (d). (e), (g); 63.1625(b); table 5 to subpart EEEE; §§ 63.3166(a); 63.3360(e); 63.3545(a); 63.3555(a); 63.4166(a); 63.4362(a); 63.4766(a); 63.4965(a); 63.5160(d); table 4 to subpart UUUU; table 3 to subpart YYYY; table 4 to subpart AAAAA; § 63.7322(b); table 5 to subpart DDDDD; §§ 63.7822(b); 63.7824(e); 63.7825(b); 63.8000(d); table 4 to subpart JJJJJ; table 4 to subpart KKKKK; §§ 63.9307(c); 63.9323(a); 63.9621(b) and (c);table 4 to subpart SSSSS; tables 4 and 5 of subpart UUUUU; table 1 to subpart ZZZZZ; §§ 63.11148(e); 63.11155(e); 63.11162(f); 63.11163(g); table 4 to subpart JJJJJJ; §§ 63.11410(j); 63.11551(a); 63.11646(a); 63.11945.

* * * * *

(i) * * *

(89) ASTM D6348–12 (Reapproved 2020), Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012; IBR approved for §§ 63.109(a); 63.365(b); 63.509(a); 63.7322(d), (e), and (g); 63.7825(g) and (h).

* * * * *

(96) ASTM D6420–18, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, approved November 1, 2018' IBR approved for §§ 63.101(b); 63.115(g); 63.116(c); 63.126(d); 63.128(a); 63.139(c); 63.145(d) and (i); 63.150(g); 63.180(d; 63.305(c); 63.482(b); 63.485(t); 63.488(b); 63.490(c) and (e); 63.496(b); 63.500(c); 63.501(a); 63.502(j); 63.503(a) and (g); 63.525(a) and (e); 63.987(b); 63.997(e); 63.2354(b); table 5 to subpart EEEE; §§ 63.2450(j); 63.8000(d).

* * * * *

Subpart L—National Emission Standards for Coke Oven Batteries

■ 4. Section 63.300 is amended by revising paragraphs (b) and (e) to read as follows:

§ 63.300 Applicability.

* * * * *

(b) The provisions for new sources in §§ 63.302(b) and (c) and 63.303(b) apply to each greenfield coke oven battery and to each new or reconstructed coke oven battery at an existing coke plant if the changes to or addition of a coke oven battery results in an increase in the design capacity of the coke plant as of

[94] *Analysis of Demographic Factors for Populations Living Near Coke Oven Facilities—Final.* U.S. Environmental Protection Agency, Research Triangle Park, North Carolina. May 2024. Docket ID Nos. EPA–HQ–OAR–2002–0085 and EPA–HQ–OAR–2003–0051.

November 15, 1990, (including any capacity qualifying under § 63.304(b)(6), and the capacity of any coke oven battery subject to a construction permit on November 15, 1990, which commenced operation before October 27, 1993.

* * * * *

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

* * * * *

■ 5. Section 63.301 is amended by:
■ a. Adding a definition in alphabetical order for ''Bypass stack'';
■ b. Revising the definitions for ''By-product coke oven battery'' and ''Certified observer'';
■ c. Adding definitions in alphabetical order for ''Corrective action'', ''Day'', ''Fenceline'', ''Heat and/or nonrecovery coke oven battery'', ''Heat recovery steam generator'', ''Heat recovery steam generator bypass/waste heat stack'', ''Heat recovery steam generator main stack'';
■ d. Revising the definition for ''Nonrecovery coke oven battery'';
■ e. Adding definitions in alphabetical order for ''Not tall oven battery'';
■ f. Revising the definition for ''Pushing'';
■ g. Adding definitions in alphabetical order for ''Pushing/charging machine (PCM)'' and ''Root cause analysis'';
■ h. Revising the definition for ''Short coke oven battery''; and
■ i. Adding a definition in alphabetical order for ''Waste heat stack''.

The additions and revisions read as follows:

§ 63.301 Definitions.

* * * * *

Bypass stack at a heat recovery facility means a stack through which emissions are discharged from a common tunnel that collects gases from a coke oven battery. and where the emissions are not passed through a heat recovery unit. Common tunnels typically are equipped with afterburners to further reduce organic emissions in the coke oven gas.

By-product coke oven battery means a source consisting of a group of ovens connected by common walls, where coal undergoes destructive distillation under positive pressure to produce coke and coke oven gas, from which by-products are recovered.

Certified observer means a visual emission observer, certified under (if applicable) Method 303 and Method 9 or ASTM D7520–16 (if applicable; see § 63.14 for availability) and employed by the Administrator, which includes a delegated enforcement agency or its designated agent. For the purpose of notifying an owner or operator of the results obtained by a certified observer, the person does not have to be certified.

* * * * *

Corrective action means the design, operation and maintenance changes that one takes consistent with good engineering practice to reduce or eliminate the likelihood of the recurrence of the primary cause and any other contributing cause(s) of an event identified by a root cause analysis as having resulted in a discharge of gases from an affected facility in excess of specified thresholds.

Day for monitoring purposes means any operation of the unit of more than three hours total for any time in the 24-hour period between 12:00 a.m. on one calendar day and 12:00 a.m. on the next calendar day.

* * * * *

Fenceline is a location on the border of the coke oven manufacturing facility property.

* * * * *

Heat and/or nonrecovery coke oven battery means a group of ovens, connected by common side walls, in which coal undergoes destructive distillation under negative pressure to produce coke and coke oven gas and from which by-products are not recovered. The common tunnels typically contain afterburners to further reduce organic emissions in the coke oven gas. For nonrecovery plants (*i.e.,* no chemical recovery) with heat recovery, the oven gases are vented through common tunnels to a heat recovery steam generator that produces steam. Heat recovery coke oven batteries may release oven gases through common tunnels and then into the atmosphere through bypass stacks when the heat recovery steam generators are not available due to maintenance or repair. For nonrecovery coke oven batteries (*i.e.,* no chemical recovery) without heat recovery, oven gases are vented through common tunnels and then released to the atmosphere through waste heat stacks.

Heat recovery steam generator is a process unit that recovers heat from coke oven gas in order to produce steam. Units typically are equipped with desulfurization units and baghouses to remove pollutants from the exhaust gases.

Heat recovery steam generator bypass/waste heat stack means a stack that allows coke oven gas to be vented from the coke oven batteries through common tunnels and into the atmosphere when there are no heat recovery steam generator units available for heat recovery. Common tunnels typically are equipped with afterburners to further reduce organic emissions in the coke oven gas.

Heat recovery steam generator main stack means the stack that is the point of final discharge to the atmosphere of the gases emanating from a heat recovery steam generator and its control devices, which typically are desulfurization units and baghouses.

* * * * *

Nonrecovery coke oven battery means a source consisting of a group of ovens connected by common walls, where coal undergoes destructive distillation under negative pressure to produce coke, and which is designed for the combustion of the coke oven gas from which by-products are not recovered. Also known as a heat and/or nonrecovery battery. Nonrecovery coke oven battery refers to units from which heat is recovered from the coke oven gas exhaust as well as units where heat is not recovered. Both heat and/or nonrecovery batteries are connected by common tunnels that typically include afterburners to further reduce organic emissions in the coke oven gas.

Not tall oven battery means a coke oven battery with ovens less than 6 meters (20 feet) in height.

* * * * *

Pushing, for the purposes of § 63.305, means the coke oven operation that commences when the pushing ram starts into the oven to push out coke that has completed the coking cycle and ends when the quench car is clear of the coke side shed.

Pushing/charging machine (PCM) means the combined coke oven pushing and charging machine operated on rail tracks to open an oven door, push the finished coke from the open oven, and

close the oven door, and to charge the adjacent oven with coal to start the coking cycle. Typically used with horizontal ovens such as those at nonrecovery coke facilities.

Root cause analysis is an assessment conducted through a process of investigation to determine the primary underlying cause and all other contributing causes to an exceedance of an action level set forth in this rule.

* * * * *

Short coke oven battery means a coke oven battery with ovens less than 6 meters (20 feet) in height. Also called a ''not tall'' oven battery.

* * * * *

Waste heat stack at a heat and/or nonrecovery facility means a stack that allows coke oven gas to be vented from the coke oven batteries through common tunnels and into the atmosphere when there are no units available for heat recovery. Common tunnels typically contain afterburners to further reduce organic emissions in coke oven gas.

■ 6. Section 63.302 is amended by:
■ a. Adding paragraph (a)(4); and
■ b. Revising paragraph (d).

The addition and revision read as follows:

§ 63.302 Standards for by-product coke oven batteries.

(a) * * *

(4) On and after July 7, 2025:

(i) for facilities with coke production capacity more than or equal to 3 million tpy coke and as determined by the procedures in § 63.309(d)(1), 2.5 percent leaking coke oven doors for each tall by-product coke oven battery and 1.7 percent leaking coke oven doors for each not tall by-product coke oven battery;

(ii) for facilities with coke production capacity less than 3 million tpy coke and as determined by the procedures in § 63.309(d)(1), 3.8 percent leaking coke oven doors for each tall by-product coke oven battery and 3.2 percent leaking coke oven doors for each not tall by-product coke oven battery;

(iii) 0.32 percent leaking topside port lids, as determined by the procedures in § 63.309(d)(1);

(iv) 2.1 percent leaking offtake system(s), as determined by the procedures in § 63.309(d)(1); and

(v) 12 seconds of visible emissions per charge, as determined by the procedures in § 63.309(d)(2).

* * * * *

(d) Emission limitations and requirements applied to each coke oven battery utilizing a new recovery technology shall be less than the following emission limitations or shall result in an overall annual emissions rate for coke oven emissions for the battery that is lower than that obtained by the following emission limitations on and after July 7, 2025:

(1) Coke oven doors on by-product coke oven batteries at facilities with production capacity more than or equal to 3 million tpy coke:

(i) 2.5 percent leaking coke oven doors on tall by-product coke oven batteries, as defined in § 63.301 and as determined by the procedures in § 63.309(d)(1); and

(ii) 1.7 percent leaking coke oven doors for each not tall by-product coke oven battery, as determined by the procedures in § 63.309(d)(1);

(2) For coke oven doors on by-product coke oven batteries at facilities with coke production capacity less than 3 million tpy coke:

(i) 3.8 percent leaking coke oven doors on tall by-product coke oven batteries, as determined by the procedures in § 63.309(d)(1); and

(ii) 3.2 percent leaking coke oven doors on not tall by-product coke oven batteries, as determined by the procedures in § 63.309(d)(1);

(3) 2.1 percent leaking offtake system(s), as determined by the procedures in § 63.309(d)(1);

(4) 0.32 percent leaking topside port lids, as determined by the procedures in § 63.309(d)(1); and

(5) 12 seconds of visible emissions per charge, as determined by the procedures in § 63.309(d)(2).

■ 7. Section 63.303 is amended by revising paragraphs (a)(1), (b)(1), and (c) introductory text to read as follows:

§ 63.303 Standards for nonrecovery coke oven batteries.

(a) * * *

(1) For coke oven doors and common tunnels;

(i) 0.0 percent leaking coke oven doors, as determined by the procedures in § 63.309(d)(1); and

(ii) The owner or operator shall monitor and record, once per day for each day of operation, the pressure in each oven or in each common battery tunnel during pushing, charging, and coking to ensure that the ovens are operated under a negative pressure.

(iii) The date for compliance with (a)(1)(i) and (ii) of this section is on and after July 7, 2025.

* * * * *

(b) * * *

(1) For coke oven doors and common tunnels;

(i) 0.0 percent leaking coke oven doors, as determined by the procedures in § 63.309(d)(1); and

(ii) The owner or operator shall monitor and record, once per day for each day of operation, the pressure in each oven or in each common battery tunnel during pushing, charging, and coking to ensure that the ovens are operated under a negative pressure.

(iii) The date for compliance with (b)(1)(i) and (ii) of this section is on and after July 7, 2025, or upon initial startup, whichever is later.

* * * * *

(c) Except as provided in § 63.304(a), (b), and (d), the owner or operator of any nonrecovery coke oven battery shall meet the work practice standards in paragraphs (c)(1) and (2) of this section.

* * * * *

■ 8. Section 63.304 is amended by:
■ a. Revising paragraph (b)(6);
■ b. Designating the undesignated paragraph following paragraph (b)(6)(v) as (b)(7)
■ c. Adding paragraph (b)(8).

The revision and addition read as follows:

§ 63.304 Standards for compliance date extension.

* * * * *

(b) * * *

(6) The owner or operator of a cold-idle coke oven battery that shut down prior to November 15, 1990, shall submit a written request to the Administrator to include the battery in the design capacity of a coke plant as of November 15, 1990. A copy of the request shall also be sent to Director, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. The Administrator will review and approve or disapprove a request according to the following procedures:

(i) Requests will be reviewed for completeness in the order received. A complete request shall include:

(A) Battery identification;

(B) Design information, including the design capacity and number and size of ovens; and

(C) A brief description of the owner or operator's plans for the cold-idle battery, including a statement whether construction of a padup rebuild or a brownfield coke oven battery is contemplated.

(ii) A complete request shall be approved if the design capacity of the battery and the design capacity of all previous approvals does not exceed the capacity limit in paragraph (b)(6)(i)(C) of this section.

(iii) The total nationwide coke capacity of coke oven batteries that receive approval under paragraph (b)(6) of this section shall not exceed 2.7 million Mg/yr (3.0 million ton/yr).

(iv) If a construction permit is required, an approval shall lapse if a construction permit is not issued within 3 years of the approval date, or if the construction permit lapses.

(v) If a construction permit is not required, an approval will lapse if the battery is not restarted within 2 years of the approval date.

(7) The owner or operator of a by-product coke oven battery with fewer than 30 ovens may elect to comply with an emission limitation of 2 or fewer leaking coke oven doors, as determined by the procedures in § 63.309(d)(4), as an alternative to the emission limitation for coke oven doors in paragraphs (b)(2)(i), (b)(3) (i) through (ii), (b)(4)(i), (b)(5), and (b)(6) of this section.

(8) On and after July 7, 2025:

(i) 2.5 percent leaking coke oven doors on each tall by-product coke oven battery and for each by-product coke oven battery owned or operated by a foundry coke producer, as determined by the procedures in § 63.309(d)(1) for facilities with production capacity greater than 3 million tpy coke or 1.7 percent leaking coke oven doors for each not tall by-product coke oven battery and for each by-product coke oven battery owned or operated by a foundry coke producer, as determined by the procedures in § 63.309(d)(1) for facilities with production capacity greater than 3 million tpy coke; and

(ii) 3.8 percent leaking coke oven doors on each tall by-product coke oven battery and for each by-product coke oven battery owned or operated by a foundry coke producer, as determined by the procedures in § 63.309(d)(1) for facilities with production capacity less than 3 million tpy coke or 3.2 percent leaking coke oven doors for each not tall by-product coke oven battery and for each by-product coke oven battery owned or operated by a foundry coke producer, as determined by the procedures in § 63.309(d)(1) for facilities with production capacity less than 3 million tpy coke.

* * * * *

■ 9. Section 63.305 is amended by:
■ a. Adding paragraph (c)(3)(iii); and.
■ b. Revising paragraphs (c)(5)(ii)(A) and (f)(4).

The addition and revisions read as follows:

§ 63.305 Alternative standards for coke oven doors equipped with sheds.

* * * * *

(c) * * *

(3) * * *

(iii) Alternatively, ASTM D7520–16, (incorporated by reference, see § 63.14) may be used with the following conditions:

(A) During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(B) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(C) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(D) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of anyone reading and the average error must not exceed 7.5 percent opacity.

(E) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

* * * * *

(5) * * *

(ii) * * *

(A) Measure the total emission rate of benzene, toluene, and xylene exiting the control device using Method 18 in appendix A–6 to 40 CFR part 60 and the emission rate of benzene soluble organics entering the control device as described in the test plan submitted pursuant to paragraph (b) of this section. The voluntary consensus standard ASTM D6420–18, (incorporated by reference, see § 63.14) is an acceptable alternative to EPA Method 18 for benzene, toluene, and xylene; or

* * * * *

(f) * * *

(4) The opacity of emissions from the control device for the shed shall be monitored in accordance with the requirements of either paragraph (f)(4)(i) or (ii) of this section, at the election of the owner or operator.

(i) The owner or operator shall install, operate, and maintain a continuous opacity monitor, and record the output of the system, for the measurement of the opacity of emissions discharged from the emission control system per §§ 63.300(e) and 63.8(d)(1) and (2).

(A) Each continuous opacity monitoring system shall meet the requirements of Performance Specification 1 in appendix B to 40 CFR part 60; and

(B) Each continuous opacity monitoring system shall be operated, calibrated, and maintained according to the procedures and requirements specified in 40 CFR part 52; and

(C) The owner or operator shall keep the written procedures required by § 63.8(d)(1) and (2) on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2); or

(ii) A certified observer shall monitor and record at least once each day during daylight hours, opacity observations for the control device for the shed using Method 9 in appendix A–4 to 40 CFR part 60. Alternatively, ASTM D7520–16, (incorporated by reference, see § 63.14) may be used with the following conditions:

(A) During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(B) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(C) The owner or operator must follow the recordkeeping procedures outlined

in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(D) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of anyone reading and the average error must not exceed 7.5 percent opacity.

(E) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

* * * * *

■ 10. Section 63.309 is amended by revising paragraphs (a) introductory text, (d)(1), (2), and (5), (g), (j)(1), (k) introductory text, (k)(1) introductory text, (k)(1)(iii), and (m) to read as follows:

§ 63.309 Performance tests and procedures.

(a) Except as otherwise provided, a daily performance test shall be conducted each day, 7 days per week for each new and existing coke oven battery, the results of which shall be used in accordance with procedures specified in this subpart to determine compliance with each of the applicable visible emission limitations for coke oven doors, topside port lids, offtake systems, and charging operations in this subpart. If a facility pushes and charges only at night, then that facility must, at its option, change their schedule and charge during daylight hours or provide adequate lighting so that visible emission inspections can be made at night. ''Adequate lighting'' will be determined by the enforcement agency. The performance test should be based on representative performance (*i.e.,* performance based on the entire range of normal operating conditions) of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent the entire range of normal operations, including operational conditions for maximum emissions if such emissions are not expected during maximum production. You shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(d) * * *

(1) The 30-run rolling average of the percent leaking coke oven doors, topside port lids, and offtake systems on each coke oven battery, using the equations in sections 12.5, 12.6, and 12.7 of Method 303 (or section 12 of Method 303A) in appendix A to this part;

(2) For by-product coke oven battery charging operations, the logarithmic 30-day rolling average of the seconds of visible emissions per charge for each battery, using the equation in section 12.4 of Method 303 in appendix A to this part;

* * * * *

(5) For an approved alternative emission limitation for coke oven doors according to § 63.305, the weekly or monthly observation of the percent leaking coke oven doors using Method 303 in appendix A to this part, the percent opacity of visible emissions from the control device for the shed using Method 9 in appendix A–4 to 40 CFR part 60 or ASTM D7520–16 (incorporated by reference, see § 63.14), and visible emissions from the shed using Method 22 in appendix A–7 to 40 CFR part 60;

* * * * *

(g) Compliance with the alternative standards for nonrecovery coke oven batteries in § 63.303; shed inspection, maintenance requirements, and monitoring requirements for parameters affecting the shed exhaust or pushing/charging machine or equivalent device flow rate for batteries subject to alternative standards for coke oven doors under § 63.305; work practice emission control plan requirements in § 63.306; standards for bypass/bleeder stacks in § 63.307; and standards for collecting mains in § 63.308 is to be determined by the enforcement agency based on review of records and inspections.

* * * * *

(j) * * *

(1) Using a certified observer, determine the average opacity of five consecutive charges per week for each charging emissions capture system if charges can be observed according to the requirements of Method 9 in appendix A–4 to 40 CFR part 60 or ASTM D7520–16 (as applicable; incorporated by reference, see § 63.14), except as specified in paragraphs (j)(1)(i) and (ii) of this section.

(i) Instead of the procedures in section 2.4 of Method 9 in appendix A–4 to 40 CFR part 60 or section 8.4 of ASTM D7520–16 (as applicable; incorporated by reference, see § 63.14), record observations to the nearest 5 percent at 15-second intervals for at least five consecutive charges.

(ii) Instead of the procedures in section 2.5 of Method 9 in appendix A–4 to 40 CFR part 60 or section 8.5 of ASTM D7520–16 (as applicable; incorporated by reference, see § 63.14), determine and record the highest 3-minute average opacity for each charge from the consecutive observations recorded at 15-second intervals.

* * * * *

(k) The owner or operator of a new nonrecovery coke oven battery shall conduct a performance test to demonstrate initial compliance with the emission limitations for a charging emissions control device in § 63.303(d)(2) within 180 days of the compliance date that is specified for the affected source in § 63.300(a)(4) and report the results in the notification of compliance status. The owner or operator shall prepare a site-specific test plan according to the requirements in § 63.7(c) and shall conduct each performance test according to the requirements in paragraphs (a) and (k)(1) through (4) of this section.

(1) Determine the concentration of PM according to the following test methods in appendices A–1 through A–3 to 40 CFR part 60

* * * * *

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas. You may also use as an alternative to Method 3B, the manual method (but not instrumental procedures) for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas, ANSI/ASME PTC 19.10–1981 (incorporated by reference, see § 63.14).

* * * * *

(m) Visible emission observations of a charging emissions control device required by § 63.303(d)(3)(iii) must be performed by a certified observer according to Method 9 in appendix A–4 to 40 CFR part 60 or ASTM D7520–16 (as applicable; incorporated by reference, see § 63.14) for one 6-minute period.

■ 11. Remove and reserve § 63.310.

§ 63.310 [Removed and Reserved]

■ 12. Section 63.311 is amended by:

■ a. Removing paragraphs (b)(2) and (5).

■ b. Redesignating paragraphs (b)(3) and (4) as paragraphs (b)(2) and (3), and paragraphs (b)(6) and (7) as paragraphs (b)(4) and (5);
■ c. Revising and republishing paragraphs (d);
■ d. Revising paragraphs (e), (f) introductory text, (f)(1)(iv), and (f)(2)(ii)(A);
■ e. Removing paragraph (f)(6).
■ f. Adding a paragraph heading to paragraph (g);
■ g. Revising paragraph (g)(1); and
■ h. Adding paragraphs (h) through (l).

The revisions and additions read as follows:

§ 63.311 Reporting and recordkeeping requirements.

* * * * *

(d) *Semiannual compliance certification.* The owner or operator of a coke oven battery shall include the following information in the semiannual compliance certification:

(1) Certification, signed by the owner or operator, that no coke oven gas was vented, except through the bypass/bleeder stack flare system of a by-product coke oven battery during the reporting period or that a venting report has been submitted according to the requirements in paragraph (e) of this section.

(2) Certification, signed by the owner or operator, that work practices were implemented if applicable under § 63.306.

(3) Certification, signed by the owner or operator, that all work practices for nonrecovery coke oven batteries were implemented as required in § 63.303(b)(3).

(4) Certification, signed by the owner or operator, that all coke oven door leaks on a nonrecovery battery were stopped according to the requirements in § 63.303(c)(2) and (3). If a coke oven door leak was not stopped according to the requirements in § 63.303(c)(2) and (3), or if the door leak occurred again during the coking cycle, the owner or operator must report the information in paragraphs (d)(4)(i) through (iv) of this section.

(i) The oven number of each coke oven door for which a leak was not stopped according to the requirements in § 63.303(c)(2) and (3) or for a door leak that occurred again during the coking cycle.

(ii) The total duration of the leak from the time the leak was first observed.

(iii) The cause of the leak (including unknown cause, if applicable), any actions taken to minimize emissions in accordance with and § 63.300(e), the corrective action taken to stop the leak.

(iv) Whether the failure occurred during a period of startup, shutdown or malfunction.

(5) Certification, signed by the owner or operator, that the opacity of emissions from charging operations for a new nonrecovery coke oven battery did not exceed 20 percent. If the opacity limit in § 63.303(d)(1) was exceeded, the owner or operator must report the number, duration, and cause of the deviation (including unknown cause, if applicable), and the corrective action taken

(6) Before September 3, 2024, report the results of any PM performance test for a charging emissions control device for a new nonrecovery coke oven battery conducted during the reporting period as required in § 63.309(l). Beginning on September 3, 2024, report PM performance test results according to paragraph (i) of this section.

(7) Certification, signed by the owner or operator, that all work practices for a charging emissions control device for a new nonrecovery coke oven battery were implemented as required in § 63.303(d)(3). If a Method 9 in appendix A–4 to 40 CFR part 60 or ASTM D7520–16 (as applicable; incorporation by reference, see § 63.14) visible emissions observation exceeds 10 percent, the owner or operator must report the duration and cause of the deviation (including unknown cause, if applicable), and the corrective action taken.

(8) Certification, signed by the owner or operator, that all work practices for oven dampers on a new nonrecovery coke oven battery were implemented as required in § 63.303(d)(4).

(9) Facility name and address (including the county) and the beginning and ending date of the reporting period.

(e) *Report for the venting of coke oven gas other than through a flare system.* The owner or operator shall report any venting of coke oven gas through a bypass/bleeder stack that was not vented through the bypass/bleeder stack flare system to the Administrator as soon as practicable but no later than 24 hours after the beginning of the event. A written or electronic report shall be submitted within 30 days of the event and shall include a description of the event and, if applicable, a copy of the notification for a hazardous substance release required pursuant to 40 CFR 302.6.

(f) *Recordkeeping.* The owner or operator shall maintain files of all required information in a permanent form suitable for inspection at an onsite location for at least 1 year and must thereafter be accessible within 3 working days to the Administrator for the time period specified in 40 CFR 70.6(a)(3)(ii)(B). Copies of the work practice plan developed under § 63.306 shall be kept onsite at all times. The owner or operator shall record the occurrence and duration of each startup, shutdown, or malfunction of process, air pollution control, and monitoring equipment, and maintain the following information:

(1) * * *

(iv) Records to demonstrate compliance with the work practice requirement for door leaks in § 63.303(c). These records must include the oven number of each leaking door, total duration of the leak from the time the leak was first observed, the cause of the leak (including unknown cause, if applicable), the corrective action taken to return the affected unit to its normal or usual manner operation, and the amount of time taken to stop the leak from the time the leak was first observed. Beginning on January 2, 2025, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and whether the failure occurred during a period of startup, shutdown or malfunction. If you failed to meet an applicable standard, the compliance report must include the start date, start time, cause, and duration (in hours) of each failure. For each failure, beginning on January 2, 2025, the compliance report must include a list of the affected sources or equipment, actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

* * * * *

(2) * * *

(ii) * * *

(A) Records of opacity readings from the continuous opacity monitor for the control device for the shed. Beginning on January 2, 2025, if you failed to meet an applicable standard, the compliance report must include whether the failure occurred during a period of startup, shutdown, or malfunction of process, air pollution control, and monitoring equipment; the start date, start time, and duration (in hours) of each failure; and any corrective actions taken to return the affected unit to its normal or usual manner of operation. For each failure, beginning on January 2, 2025, the compliance report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the

method used to estimate the emissions; and

* * * * *

(g) *Record availability.* * * *

(1) Requests under paragraph (g) of this section shall be submitted in writing or electronically, and shall identify the records or reports that are subject to the request with reasonable specificity;

* * * * *

(h) *Electronic reporting of compliance certification reports.* Beginning on July 7, 2025, or once the report template for this subpart has been available on the EPA's Compliance and Emissions Data Reporting Interface (CEDRI) website for one year, whichever date is later, submit all subsequent reports to the EPA via the CEDRI according to § 63.9(k) except that confidential business information (CBI) should be submitted according to paragraph (k) of this section.

(i) *Electronic Reporting of Performance Tests.* Beginning on September 3, 2024, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedure specified in § 63.9(k) except that CBI should submitted be according to paragraph (k) of this section. Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test must be included as an attachment in the ERT or alternate electronic file. If a performance test consists only of opacity or EPA Method 303 measurements, reporting using the ERT and CEDRI is not required.

(j) *Fenceline monitoring reporting.* For fenceline monitoring systems subject to § 63.314 of this subpart, each owner or operator must submit fenceline monitoring reports on a quarterly basis using the appropriate electronic template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart and following the procedure specified in § 63.9(k), except any medium submitted through mail must be sent to the attention of the Coke Ovens Sector Lead. The first quarterly report must cover the period beginning on the compliance date that is specified in § 63.314(a) of this subpart and ending on March 31, June 30, September 30 or December 31, whichever date is the first date that occurs after the owner or operator has completed at least one sampling period. Each subsequent quarterly report must cover one of the following reporting periods: Quarter 1 from January 1 through March 31; Quarter 2 from April 1 through June 30; Quarter 3 from July 1 through September 30; and Quarter 4 from October 1 through December 31. Each quarterly report must be electronically submitted no later than 45 calendar days following the end of the reporting period.

(1) Facility name and address (including the county).

(2) Year and reporting quarter (*i.e.,* Quarter 1, Quarter 2, Quarter 3, or Quarter 4).

(3) For each passive tube monitor: The latitude and longitude location coordinates; the sampler name; and identification of the type of sampler (*i.e.,* regular monitor, extra monitor, duplicate, field blank, inactive). Coordinates must be in decimal degrees with at least five decimal places.

(4) The beginning and ending dates for each sampling period.

(5) Individual sample results for benzene reported in units of micrograms per cubic meter ($\mu g/m^3$) for each monitor for each sampling period that ends during the reporting period. Results below the method detection limit shall be flagged as below the detection limit and reported at the method detection limit. Where individual sample results are corrected according to a site specific monitoring plan according to § 63.314(f), both the original and the corrected results are reported.

(6) Data flags that indicate each monitor that was skipped for the sampling period, if the owner or operator uses an alternative sampling frequency under § 63.314(a)(2)(iii).

(7) Data flags for each outlier determined in accordance with section 9.2 of Method 325A in appendix A to this part. For each outlier, the owner or operator must submit the individual sample result of the outlier, as well as the evidence used to conclude that the result is an outlier.

(8) The biweekly concentration difference (Δc) for benzene for each sampling period and, beginning the first quarterly report with sufficient data to calculate an annual average, the annual average Δc for benzene for each sampling period.

(9) Indication of whether the owner or operator was required to develop a corrective action plan under § 63.314(e) of this subpart.

(k) *Confidential business information (CBI).* For notifications and reports required to be submitted to CEDRI:

(1) The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information submitted under paragraphs (h) or (i) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA.

(2) For performance test reports according to paragraph (j) of this section, the file must be generated using the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website.

(3) Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

(4) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings. For performance test reports, the CBI should be flagged to the attention of the Group Leader, Measurement Policy Group; for all other reports and notifications, to the attention of the Coke Ovens Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(5) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Group Leader, Measurement Policy Group or Coke Oven Sector Lead as indicated in paragraph (k)(4) of this section. The mailed CBI material should be double wrapped and clearly marked. Any CBI

markings should not show through the outer envelope.

(6) All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(7) You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described in paragraphs (h), (i), or (j) of this section.

(l) *Fenceline monitoring recordkeeping.* For fenceline monitoring systems subject to § 63.314, each owner or operator shall keep the records specified in paragraphs (l)(1) through (10) of this section on an ongoing basis.

(1) Coordinates of all fenceline monitors, including co-located samplers and field blanks, and if applicable, the meteorological station. The owner or operator shall determine the coordinates using an instrument with an accuracy of at least 3 meters. The coordinates shall be in decimal degrees with at least five decimal places.

(2) The start and stop times and dates for each sample, as well as the tube identifying information.

(3) Sampling period average temperature and barometric pressure measurements.

(4) For each outlier determined in accordance with Section 9.2 of Method 325A in appendix A to this part, the sampler location of and the concentration of the outlier and the evidence used to conclude that the result is an outlier.

(5) For samples that will be adjusted for a background, the location of and the concentration measured simultaneously by the background sampler(s), and the perimeter samplers to which it applies.

(6) Individual sample results, the calculated Δc for benzene for each sampling period and the two samples used to determine it, whether background correction was used, and the annual average Δc calculated after each sampling period.

(7) Method detection limit for each sample, including co-located samples and blanks.

(8) Documentation of the root cause analysis and any corrective action taken each time the action level was exceeded, including the dates the root cause analysis was initiated and the resulting correction action(s) were taken.

(9) Any corrective action plan developed under § 63.314(e).

(10) Other records as required by Methods 325A and 325B in appendix A to this part.

(11) If a near-field source correction is used as provided in § 63.314(f), or if an alternative test method is used that provides time-resolved measurements, records of hourly meteorological data, including temperature, barometric pressure, wind speed and wind direction, calculated daily unit vector wind direction and daily sigma theta, and other records specified in the site-specific monitoring plan.

■ 13. Section 63.313 is amended by adding paragraph (d)(6) to read as follows:

§ 63.313 Implementation and enforcement.

* * * * *

(d) * * *

(6) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 14. Add § 63.314 to subpart L to read as follows:

§ 63.314 Fenceline monitoring provisions.

For each by-product coke oven battery facility as defined in § 63.301 of this subpart, beginning no later than July 7, 2025, the owner or operator of a coke manufacturing facility shall conduct sampling along the facility property boundary and analyze the samples in accordance with paragraphs (a) through (g) of this section.

(a) The owner or operator must conduct sampling along the facility property boundary and analyze the samples in accordance with Methods 325A and 325B in appendix A to this part and paragraphs (a)(1) through (a)(2) of this section. The monitoring perimeter may be located within the facility, inside the facility property boundary. However, the monitoring perimeter must encompass all potential sources of benzene that are located within the facility's property boundary.

(1) The target analyte is benzene. The owner or operator must follow the procedure in section 9.6 of Method 325B in appendix A to this part to determine the detection limit of benzene for each sampler used to collect samples and blanks.

(2) The owner or operator must use a sampling period and sampling frequency as specified in paragraphs (a)(2)(i) through (a)(2)(iii) of this section.

(i) A 14-day sampling period must be used unless a shorter sampling period is determined to be necessary under paragraph (e) or (g) of this section. A sampling period is defined as the period during which a sampling tube is deployed at a specific sampling location with the diffusive sampling end cap in-place and does not include the time required to analyze the sample. For the purpose of this subpart, a 14-day sampling period may be no shorter than 13 calendar days and no longer than 15 calendar days, but the routine sampling period must be 14 calendar days.

(ii) Except as provided in paragraph (a)(2)(iii) of this section, the frequency of sample collection must be once each contiguous 14-day sampling period, such that the beginning of the next 14-day sampling period begins immediately upon the completion of the previous 14-day sampling period.

(iii) When an individual monitor consistently achieves results for benzene at or below the level specified in paragraph (a)(3) of this section, the owner or operator may elect to use the applicable minimum sampling frequency specified in paragraphs (a)(2)(iii)(A) through (E) of this section for that monitoring site. When calculating Δc for the monitoring period when using this alternative for burden reduction, use zero for the lowest sampling result for each monitoring period where one or more samples was not taken and/or analyzed for benzene.

(A) If every sample at a monitoring site is at or below the level specified in paragraph (a)(3) of this section for 2 years (52 consecutive samples), every other sampling period can be skipped for that monitoring site, *i.e.,* sampling will occur approximately once per month.

(B) If every sample at a monitoring site that is monitored at the frequency specified in paragraph (a)(2)(iii)(A) of this section is at or below the level specified in paragraph (a)(3) of this section for 2 years (*i.e.,* 26 consecutive "monthly" samples), five 14-day sampling periods can be skipped for that monitoring site following each period of sampling, *i.e.,* sampling will occur approximately once per quarter.

(C) If every sample at a monitoring site that is monitored at the frequency specified in paragraph (a)(2)(iii)(B) of this section is at or below the level specified in paragraph (a)(3) of this section for 2 years (*i.e.,* 8 consecutive quarterly samples), twelve 14-day sampling periods can be skipped for that monitoring site following each period of sampling, *i.e.,* sampling will occur twice a year.

(D) If every sample at a monitoring site that is monitored at the frequency specified in paragraph (a)(2)(iii)(C) of this section is at or below the level specified in paragraph (a)(3) of this section for 2 years (*i.e.,* 4 consecutive semiannual samples), only one sample per year is required for that monitoring site. For yearly sampling, samples shall

occur at least 10 months but no more than 14 months apart.

(E) If at any time a sample for a monitoring site that is monitored at the frequency specified in paragraph (a)(2)(iii)(A) through (D) of this section returns a result that is above the level specified in paragraph (a)(3) of this section, the sampling site must return to the original sampling requirements of contiguous 14-day sampling periods with no skip periods for one quarter (six 14-day sampling periods). If every sample collected during this quarter is at or below the level specified in paragraph (a)(3) of this section, the owner or operator may revert back to the reduced monitoring schedule applicable for that monitoring site prior to the sample reading exceeding the level specified in paragraph (a)(3) of this section. If any sample collected during this quarter is above the level specified in paragraph (a)(3) of this section, that monitoring site must return to the original sampling requirements of contiguous 14-day sampling periods with no skip periods for a minimum of two years. The burden reduction requirements can be used again for that monitoring site once the requirements of paragraph (a)(2)(iii)(A) of this section are met again, *i.e.,* after 52 contiguous 14-day samples with no results above the level specified in paragraph (a)(3) of this section.

(3) To use the alternative sampling frequency outlined in paragraph (a)(2) of this section, an individual monitor must consistently achieve results for benzene at or below 0.7 $\mu g/m^3$.

(b) The owner or operator shall collect and record meteorological data according to the applicable requirements in paragraphs (b)(1) through (3) of this section.

(1) If a near-field source correction is used as provided in paragraph (f)(2) of this section and/or if an alternative test method is used that provides time-resolved measurements, the owner or operator must use an on-site meteorological station in accordance with section 8.3 of Method 325A in appendix A to this part. Collect and record hourly average meteorological data, including temperature, barometric pressure, wind speed and wind direction, and calculate daily unit vector wind direction and daily sigma theta.

(2) For cases other than those specified in paragraph (b)(1) of this section, the owner or operator shall collect and record sampling period average temperature and barometric pressure using either an on-site meteorological station in accordance with section 8.3 of Method 325A in appendix A to this part or, alternatively, using data from a National Weather Service (NWS) meteorological station provided the NWS meteorological station is within 40 kilometers (25 miles) of the coke manufacturing facility.

(3) If an on-site meteorological station is used, the owner or operator shall follow the calibration and standardization procedures for meteorological measurements in EPA–454/B–08–002 (incorporated by reference, see § 63.14).

(c) Within 45 days of completion of each sampling period, the owner or operator shall determine whether the results are above or below the action level as follows.

(1) The owner or operator must determine the facility impact on the benzene concentration (Δc) for each sampling period according to either paragraph (c)(1)(i) or (ii) of this section, as applicable.

(i) Except when near-field source correction is used as provided in paragraph (c)(1)(ii) of this section, the owner or operator shall determine the highest and lowest sample results for benzene concentrations from the sample pool and calculate Δc as the difference in these concentrations. Co-located samples must be averaged together for the purposes of determining the benzene concentration for that sampling location, and, if applicable, for determining Δc. The owner or operator shall adhere to the following procedures when one or more samples for the sampling period are below the method detection limit for benzene:

(A) If the lowest detected value of benzene is below detection, the owner or operator shall use zero as the lowest sample result when calculating Δc.

(B) If all sample results are below the method detection limit, the owner or operator shall use the method detection limit as the highest sample result and zero as the lowest sample result when calculating Δc.

(C) In the case of co-located samples, if one sample is above the method detection limit while the other sample is below the method detection limit, the owner or operator must use the method detection limit as the result for the sample that is below the method detection limit for purposes of averaging the results to determine the concentration at a particular sampling location, and, if applicable, for determining Δc.

(ii) When near-field source correction is used as provided in paragraph (f)(2) of this section, the owner or operator must determine Δc using the calculation protocols outlined in paragraph (c)(1)(i) of this section except as provided in this paragraph (c)(1)(ii), and the additional requirements in paragraph (f)(2) of this section, as well as any additional requirements outlined in the approved site-specific monitoring plan. The Δc for the sampling period is equal to the higher of the values in paragraphs (c)(1)(ii)(A) and (B) of this section.

(A) The highest corrected sample result from a sampling location where near-field source correction is used during the sampling period.

(B) The difference in concentration between the highest sample result that was not corrected for a near-field source during the sampling period and the lowest sample result for the sampling period.

(2) The owner or operator must calculate the annual average Δc based on the average of the 26 most recent 14-day sampling periods. The owner or operator must update this annual average value after receiving the results of each subsequent 14-day sampling period.

(3) The action level for benzene is 7 $\mu g/m^3$ on an annual average basis. If the annual average Δc value for benzene is greater than 7 $\mu g/m^3$, the concentration is above the action level, and the owner or operator must conduct a root cause analysis and corrective action in accordance with paragraph (d) of this section.

(d) Once the action level in paragraph (c)(3) of this section has been exceeded, the owner or operator must take the following actions to bring the annual average Δc back below the action level.

(1) Within 5 days of updating the annual average value as required in paragraph (c)(2) of this section and determining that the action level in paragraph (c)(3) of this section has been exceeded (*i.e.,* in no case longer than 50 days after completion of the sampling period), the owner or operator must initiate a root cause analysis to determine appropriate corrective action. A root cause analysis is an assessment conducted through a process of investigation to determine the primary underlying cause and all other contributing causes to an exceedance of the action level set forth in paragraph (c)(3) of this section.

(i) Root cause analysis may include, but is not limited to:

(A) Leak inspection using Method 21 in appendix A–7 to 40 CFR part 60, optical gas imaging, or handheld monitors.

(B) Visual inspection to determine the cause of the high benzene emissions.

(C) Employing progressively more frequent sampling, analysis and meteorology (*e.g.,* using shorter

sampling periods for Methods 325A and 325B in appendix A to this part, or using active sampling techniques, like those utilized as part of a site-specific monitoring plan).

(D) Operator knowledge of process changes (*e.g.,* a malfunction or release event).

(ii) If the root cause cannot be identified using the type of techniques described in paragraph (d)(1)(i) of this section, the owner or operator must employ more frequent sampling and analysis to determine the root cause of the exceedance.

(A) The owner or operator may first employ additional monitoring points and shorter sampling periods for Methods 325A and 325B in appendix A to this part for benzene to determine the root cause of the exceedance.

(B) If the owner or operator has not determined the root cause of the exceedance within 30 days of determining that the action level has been exceeded, the owner or operator must employ the appropriate real-time sampling techniques (*e.g.,* mobile gas chromatographs, optical spectroscopy instruments, sensors) to locate the cause of the exceedance. If the root cause is not identified after 48 hours, either the real-time monitor must be relocated or an additional real-time monitor must be added. Relocation or addition of extra real-time monitors must continue after each 48-hour period of nonidentification until the owner or operator can identify the root cause of the exceedance.

(2) If either the underlying primary or other contributing causes of the exceedance are deemed to be under the control of the owner or operator and subject to a regulation codified in 40 CFR part 63, except as provided in paragraph (c)(3) of this section, the owner or operator must take appropriate corrective action as expeditiously as possible to bring annual average fenceline concentrations back below the action level set forth in paragraph (c)(3) of this section and to prevent future exceedances from the same underlying cause(s).

(3) If the underlying primary or other contributing cause of the exceedance is under the control of the owner or operator but not subject to a regulation codified in 40 CFR part 63, as evidenced through the root cause analysis in paragraph (d)(1) of this section and supported by appropriate real-time sampling techniques consistent with paragraph (d)(1)(ii)(B) of this section, the owner or operator is not required to take corrective action under this subpart at any portion of the facility not subject to a regulation codified in 40 CFR part 63. However, the owner or operator must add additional monitoring locations in accordance with section 8.2.1.3 of EPA Method 325A in appendix A to this part or update their site-specific monitoring plan to add additional real-time monitors to account and correct for this near-field source of emissions not subject to a regulation codified in 40 CFR part 63 within 60 days of determining the underlying cause.

(4) The root cause analysis must be completed and initial corrective actions, if applicable, taken no later than 45 days after determining there is an exceedance of an action level.

(5) Except as noted in paragraph (d)(6) of this section, until the annual average Δc is below the action level again, following the completion of the initial corrective action, the owner or operator must conduct a new root cause analysis according to this paragraph (d), and if required, submit a corrective action plan under paragraph (e) of this section following any sampling period for which the Δc for the sampling period is greater than the action level in paragraph (c)(3) of this section.

(6) This paragraph applies when an owner or operator is required under paragraph (d)(3) of this section to update the site-specific monitoring plan to account for an additional near-field emission source. Until the annual average Δc is below the action level again, following implementation of the approved revision to the site-specific monitoring plan, the owner or operator must conduct a new root cause analysis according to this paragraph (d), and if required, submit a corrective action plan under paragraph (e) of this section following any sampling period for which the Δc for the sampling period is greater than the action level in paragraph (c)(3) of this section.

(e) An owner or operator must develop a corrective action plan if any of the conditions in paragraphs (e)(1) through (e)(3) of this section are met. The corrective action plan must describe the corrective action(s) completed to date, additional measures that the owner or operator proposes to employ to reduce annual average fenceline concentrations below the action level set forth in paragraph (c)(3) of this section, and a schedule for completion of these measures. The corrective action plan does not need to be approved by the Administrator. However, if upon review, the Administrator disagrees with the additional measures outlined in the plan, the owner or operator must revise and resubmit the plan within 7 calendar days of receiving comments from the Administrator.

(1) Except as noted in paragraph (e)(3) of this section, if upon completion of the root cause analysis and initial corrective actions required under paragraph (d) of the section, the Δc value for the next sampling period, for which the sampling start time begins after the completion of the initial corrective actions, is greater than the level specified in paragraph (c)(3) of this section. The corrective action plan must include the implementation of real-time sampling techniques to locate the primary and other contributing causes of the exceedance. The owner or operator must submit the corrective action plan to the Administrator within 60 days after receiving the analytical results indicating that the Δc value for the sampling period following the completion of the initial corrective action is greater than the level specified in paragraph (c)(3) of this section.

(2) The owner or operator must develop a corrective action plan if complete implementation of all corrective measures identified in the root cause analysis required by paragraph (e) of this section will require more than 45 days. The owner or operator must submit the corrective action plan to the Administrator no later than 60 days following the completion of the root cause analysis required in paragraph (d) of this section.

(3) The owner or operator must develop a corrective action plan if upon completion of the root cause analysis and following implementation of the approved revision to the site-specific monitoring plan required under paragraph (d)(3) of this section, the Δc value for the next sampling period, for which the sampling start time begins after implementation of the approved revision to the site-specific monitoring plan, is greater than the level specified in paragraph (c)(3) of this section. The corrective action plan must include the implementation of real-time sampling techniques to locate the primary and other contributing causes of the exceedance. The owner or operator must submit the corrective action plan to the Administrator within 60 days after receiving the analytical results indicating that the Δc value for the sampling period following the implementation of the approved revision to the site-specific monitoring plan is greater than the level specified in paragraph (c)(3) of this section.

(f) An owner or operator may request approval from the Administrator for a site-specific monitoring plan to account for offsite upwind sources or onsite sources not subject to a regulation

codified in 40 CFR part 63 according to the requirements in paragraphs (f)(1) through (4) of this section.

(1) The owner or operator must prepare and submit a site-specific monitoring plan and receive approval of the site-specific monitoring plan prior to using the near-field source alternative calculation for determining Δc provided in paragraph (f)(2) of this section. The site-specific monitoring plan shall include, at a minimum, the elements specified in paragraphs (f)(1)(i) through (v) of this section. The procedures in section 12 of Method 325A in appendix A to this part are not required, but may be used, if applicable, when determining near-field source contributions.

(i) Identification of the near-field source or sources. For onsite sources, specify that the onsite source is not subject to a regulation codified in 40 CFR part 63 and identify any federal regulation or federally enforceable permit condition the source is subject to.

(ii) Identification of the fenceline monitoring locations impacted by the near-field source. If more than one near-field source is present, identify the near-field source or sources that are expected to contribute to the concentration at each monitoring location.

(iii) A description of (including sample calculations illustrating) the planned data reduction; treatment of invalid data and data below detection limits; and calculations to determine the near-field source concentration contribution for each monitoring location.

(iv) A detailed description of the measurement technique, measurement location(s), the standard operating procedures, measurement frequency, recording frequency, measurement detection limit, and data quality indicators to ensure accuracy, precision, and validity of the data. If you are accounting for on-site sources, you must use a real-time sampling technique (*e.g.,* mobile gas chromatographs, optical spectroscopy instruments, sensors).

(v) A detailed description of how data will be handled during periods of calm wind conditions (*i.e.,* less than 2 miles per hour).

(2) When an approved site-specific monitoring plan is used, the owner or operator shall determine Δc for comparison with action level according to paragraph (c) of this section. When determining the sample results for use in the Δc calculation, the concentration for any monitor that has been corrected using an approved site-specific monitoring plan will be corrected according to the procedures specified in paragraphs (f)(2)(i) and (ii) of this section.

(i) For each monitoring location corrected using the site-specific monitoring plan, the corrected fenceline concentration at that monitoring station will be equal to the fenceline concentration measured with Methods 325A and 325B in appendix A to this part minus the near-field source contributing concentration at the measurement location determined using the additional measurements and calculation procedures included in the approved site-specific monitoring plan.

(ii) If the fenceline concentration at the monitoring station is below the method detection limit for Methods 325A and 325B in appendix A to this part, no near-field source contribution can be subtracted from that monitoring station for that sampling period.

(3) The site-specific monitoring plan shall be submitted and approved as described in paragraphs (f)(3)(i) through (iv) of this section.

(i) The site-specific monitoring plan must be submitted to the Administrator for approval.

(ii) The site-specific monitoring plan shall also be submitted to the following address: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, U.S. EPA Mailroom (D243–02), Attention: Metals and Inorganic Chemicals Group, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Electronic copies in lieu of hard copies also may be submitted to *fencelineplan@epa.gov.*

(iii) The Administrator shall approve or disapprove the plan in 120 days. The plan shall be considered approved if the Administrator either approves the plan in writing or fails to disapprove the plan in writing. The 120-day period shall begin when the Administrator confirms receipt of a complete site-specific monitoring plan.

(iv) If the Administrator finds any deficiencies in the site-specific monitoring plan and disapproves the plan in writing, the owner or operator may revise and resubmit the site-specific monitoring plan following the requirements in paragraphs (f)(3)(i) and (ii) of this section. The 120-day period starts over with the resubmission of the revised monitoring plan. The Administrator may indicate in writing that a submitted plan is incomplete and specify the information necessary for completeness.

(4) The approval by the Administrator of a site-specific monitoring plan will be based on the completeness, accuracy and reasonableness of the request for a site-specific monitoring plan. Factors that the Administrator will consider in reviewing the request for a site-specific monitoring plan include, but are not limited to, those described in paragraphs (f)(4)(i) through (v) of this section.

(i) The identification of the near-field source or sources and evidence of how the sources impact the fenceline concentration.

(ii) The location(s) selected for additional monitoring to determine the near-field source concentration contribution.

(iii) The identification of the fenceline monitoring locations impacted by the near-field source or sources.

(iv) The appropriateness of the planned data reduction and calculations to determine the near-field source concentration contribution for each monitoring location, including the handling of invalid data, data below the detection limit, and data during calm periods.

(v) The adequacy of the description of and the rationale for the measurement technique, measurement location(s), the standard operating procedure, the measurement and recording frequency, measurement detection limit, and data quality indicators proposed to ensure accuracy, precision, and validity of the data.

(g) The owner or operator shall comply with the applicable recordkeeping and reporting requirements in § 63.311.

(h) As outlined in § 63.7(f), the owner or operator may submit a request for an alternative test method. At a minimum, the request must follow the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) The alternative method may be used in lieu of all samplers or a partial number of the passive samplers required in Method 325A in appendix A to this part.

(2) The alternative method must be validated according to Method 301 in appendix A of this part or contain performance-based procedures and indicators to ensure self-validation.

(3) The method detection limit must nominally be at least one-third of the action level. The alternate test method must describe the procedures used to provide field verification of the detection limit in the sample matrix being measured.

(4) If the alternative test method will be used to replace some or all passive samplers required under paragraph (a) of this section, the spatial coverage must be equal to or better than the spatial coverage provided in Method 325A in appendix A to this part.

(i) For path average concentration open-path instruments, the physical path length of the measurement shall be no more than a passive sample footprint (the spacing that would be provided by the sorbent traps when following Method 325A). For example, if Method 325A requires spacing monitors A and B 610 meters (2000 feet) apart, then the physical path length limit for the measurement at that portion of the fenceline shall be no more than 610 meters (2000 feet).

(ii) For range resolved open-path instrument or approach, the instrument or approach must be able to resolve an average concentration over each passive sampler footprint within the path length of the instrument.

(iii) The extra samplers required in sections 8.2.1.3 of Method 325A may be omitted when they fall within the path length of an open-path instrument.

(5) At a minimum, non-integrating alternative test methods must provide a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(6) For alternative test methods capable of real time measurements (less than a 5-minute sampling and analysis cycle), the alternative test method may allow for elimination of data points corresponding to outside emission sources for purpose of calculation of the high point for the two-week average. The alternative test method approach must have wind speed, direction and stability class of the same time resolution and within the footprint of the instrument.

(7) For purposes of averaging data points to determine the Δc for the 14-day average high sample result, all results measured under the method detection limit must use the method detection limit. For purposes of averaging data points for the 14-day average low sample result, all results measured under the method detection limit must use zero.

Subpart CCCCC—National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

■ 15. Section 63.7280 is revised to read as follows:

§ 63.7280 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for pushing, soaking, quenching, battery stacks, heat and/or nonrecovery (HNR) heat recovery steam generator (HRSG) main stacks, and HNR HRSG bypass/waste heat stacks at facilities that produce coke in coke oven batteries and facilities that recover heat from coke oven gas. This subpart also establishes requirements to demonstrate initial and continuous compliance with all applicable emission limitations, work practice standards, and operation and maintenance requirements in this subpart.

■ 16. Section 63.7282 is revised to read as follows:

§ 63.7282 What parts of my plant does this subpart cover?

(a) This subpart applies to each new or existing affected source at your coke plant. The affected source is each coke oven battery and units that recover heat from coke oven gas from the coke batteries.

(b) This subpart covers emissions from pushing, soaking, quenching, by-product battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks from each affected source, as applicable to the coke oven facility.

(c) An affected source at your coke plant is existing if you commenced construction or reconstruction of the affected source before July 3, 2001.

(d) An affected source at your coke plant is new if you commenced construction or reconstruction of the affected source on or after July 3, 2001. An affected source is reconstructed if it meets the definition of ''reconstruction'' in § 63.2. This paragraph (d) does not apply to the emission limitations listed in §§ 63.7290(b) through (d), 63.7296(c) through (f), 63.7297(a) through (d), and 63.7298(a) through (e) for capture systems and control devices applied to pushing emissions, battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks, respectively.

(e) An affected source at your coke plant is existing for the emissions limitations listed in §§ 63.7290(b) through (d), 63.7296(c) through (f), 63.7297(a) through (d), and 63.7298(a) through (e) for capture systems and control devices applied to pushing emissions, battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks, respectively if you commenced construction or reconstruction of the affected source before August 16, 2023.

(f) An affected source at your coke plant is new for the emissions limitations listed in §§ 63.7290(b) through (d), 63.7296(c) through (f), 63.7297(a) through (d), and 63.7298(a) through (e) for capture systems and control devices applied to pushing emissions, battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks, respectively if you commenced construction or reconstruction of the affected source on or after August 16, 2023.

■ 17. Section 63.7283 is revised to read as follows:

§ 63.7283 When do I have to comply with this subpart?

(a) If you have an existing affected source, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than April 14, 2006. This paragraph does not apply to the emission limitations listed in §§ 63.7290(b) through (d), 63.7296(c) through (f), 63.7297(a) through (d), and 63.7298(a) through (e) for capture systems and control devices applied to pushing emissions, battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks, respectively.

(b) If you have a new affected source and its initial startup date is on or before April 14, 2003, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you by April 14, 2003. This paragraph does not apply to the emission limitations listed in §§ 63.7290(b) through (d), 63.7296(c) through (f), 63.7297(a) through (d), and 63.7298(a) through (e) for capture systems and control devices applied to pushing emissions, battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks, respectively.

(c) If you have a new affected source and its initial startup date is after April 14, 2003, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you upon initial startup. This paragraph does not apply to the emission limitations listed in §§ 63.7290(b) through (d), 63.7296(c) through (f), 63.7297(a) through (d), and 63.7298(a) through (e) for capture systems and control devices applied to pushing emissions, battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks, respectively.

(d) With regard to the §§ 63.7290(b) through (d), 63.7296(c) through (f), 63.7297(a) through (d), and 63.7298(a) through (e) emission limitations for capture systems and control devices applied to pushing emissions, battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks, respectively:

(1) If you have an existing affected source or a new or reconstructed affected source for which construction or reconstruction commenced on or before August 16, 2023, you must be in

compliance no later than January 5, 2026.

(2) If you have a new or reconstructed affected source for which construction or reconstruction commenced after August 16, 2023, you must be in compliance no later than January 5, 2026 or upon startup, whichever is later.

(e) With regard to the § 63.7299 opacity limitations for HNR HRSG bypass/waste heat stacks:

(1) If you have an existing affected source or a new or reconstructed affected source for which construction or reconstruction commenced on or before August 16, 2023, you must be in compliance no later than July 7, 2025.

(2) If you have a new or reconstructed affected source for which construction or reconstruction commenced after August 16, 2023, you must be in compliance no later than July 7, 2025, or upon initial startup, whichever is later.

(f) You must meet the notification and schedule requirements in § 63.7340. Several of these notifications must be submitted before the compliance date for your affected source.

■ 18. Section 63.7290 is revised to read as follows:

§ 63.7290 What emission limitations must I meet for capture systems and control devices applied to pushing emissions?

(a) You must not discharge to the atmosphere emissions of particulate matter from a control device applied to pushing emissions from a new or existing coke oven battery that exceed the applicable limit in paragraphs (a)(1) through (4) of this section:

(1) 0.01 grain per dry standard cubic foot (gr/dscf) if a cokeside shed is used to capture emissions;

(2) 0.02 pound per ton (lb/ton) of coke if a moveable hood vented to a stationary control device is used to capture emissions;

(3) If a mobile scrubber car that does not capture emissions during travel is used:

(i) 0.03 lb/ton of coke for a control device applied to pushing emissions from a short battery, or

(ii) 0.01 lb/ton of coke for a control device applied to pushing emissions from a tall battery; and

(4) 0.04 lb/ton of coke if a mobile control device that captures emissions during travel is used.

(b) You must not discharge to the atmosphere emissions of mercury from a control device applied to pushing emissions from a new coke oven battery that exceeds 5.1E–07 lb/ton coke or existing coke oven battery that exceeds 8.9E–07 lb/ton coke.

(c) You must not discharge to the atmosphere emissions of total acid gases from a control device applied to pushing emissions from a new coke oven battery that exceeds 5.3E–04 lb/ton coke or existing coke oven battery that exceeds 0.013 lb/ton coke.

(d) You must not discharge to the atmosphere emissions of hydrogen cyanide from a control device applied to pushing emissions from a new coke oven battery that exceeds 3.8E–05 lb/ton coke or existing coke oven battery that exceeds 0.0015 lb/ton coke.

(e) You must not discharge to the atmosphere emissions of total polycyclic aromatic hydrocarbons (PAH) from a control device applied to pushing emissions from a new coke oven battery that exceeds 1.4E–05 lb/ton coke or existing coke oven battery that exceeds 4.0E–04 lb/ton coke.

(f) You must meet each operating limit in paragraphs (f)(1) through (4) of this section that applies to you for a new or existing coke oven battery.

(1) For each venturi scrubber applied to pushing emissions, you must maintain the daily average pressure drop and scrubber water flow rate at or above the minimum levels established during the initial performance test.

(2) For each hot water scrubber applied to pushing emissions, you must maintain the daily average water pressure and water temperature at or above the minimum levels established during the initial performance test.

(3) For each capture system applied to pushing emissions, you must maintain the daily average volumetric flow rate at the inlet of the control device at or above the minimum level established during the initial performance test; or

(i) For each capture system that uses an electric motor to drive the fan, you must maintain the daily average fan motor amperes at or above the minimum level established during the initial performance test; and

(ii) For each capture system that does not use a fan driven by an electric motor, you must maintain the daily average static pressure at the inlet to the control device at an equal or greater vacuum than the level established during the initial performance test or maintain the daily average fan revolutions per minute (RPM) at or above the minimum level established during the initial performance test.

(4) For each multicyclone, you must maintain the daily average pressure drop at or below the minimum level established during the initial performance test.

■ 19. Section 63.7293 is revised to read as follows:

§ 63.7293 What work practice standards must I meet for fugitive pushing emissions if I have a nonrecovery coke oven battery?

(a) You must meet the requirements in paragraphs (a)(1) and (2) of this section for each new and existing nonrecovery coke oven battery.

(1) You must visually inspect each oven prior to pushing by opening the door damper and observing the bed of coke.

(2) Do not push the oven unless the visual inspection indicates that there is no smoke in the open space above the coke bed and that there is an unobstructed view of the door on the opposite side of the oven.

(b) As provided in § 63.6(g), you may request to use an alternative to the work practice standard in paragraph (a) of this section.

■ 20. Section 63.7296 is revised to read as follows:

§ 63.7296 What emission limitations must I meet for battery stacks?

You must not discharge to the atmosphere any emissions from any battery stack at a new or existing by-product coke oven battery that exhibit an opacity greater than the applicable limits in paragraphs (a) and (b) of this section and emissions greater than the applicable limits in paragraphs (c) through (f) of this section.

(a) Daily average of 15 percent opacity for a battery on a normal coking cycle.

(b) Daily average of 20 percent opacity for a battery on batterywide extended coking.

(c) Emissions of particulate matter from a new by-product coke oven battery stack that exceeds 0.013 gr/dscf at 10 percent oxygen or existing by-product coke oven battery stack that exceeds 0.13 gr/dscf at 10 percent oxygen.

(d) Emissions of mercury from a new by-product coke oven battery stack that exceeds 7.1E–06 lb/ton coke or existing by-product coke oven battery stack that exceeds 4.5E–05 lb/ton coke.

(e) Emissions of total acid gases from a new by-product coke oven battery stack that exceeds 0.013 lb/ton coke or existing by-product coke oven battery stack that exceeds 0.16 lb/ton coke.

(f) Emissions of hydrogen cyanide from a new by-product coke oven battery stack that exceeds 7.4E–04 lb/ton coke or existing by-product coke oven battery stack that exceeds 0.032 lb/ton coke.

■ 21. Sections 63.7297 through 63.7299 are added to read as follows:

Sec.

63.7297 What emission limitations must I meet for HNR HRSG main stacks?

63.7298 What emission limitations must I meet for HNR HRSG bypass/waste heat stacks?
63.7299 What opacity limitations must I meet for HNR HRSG bypass/waste heat stacks?

§ 63.7297 What emission limitations must I meet for HNR HRSG main stacks?

You must not discharge to the atmosphere any emissions from any HNR HRSG main stack at a new or existing HNR coke oven battery that exhibit emissions greater than the applicable limits in paragraphs (a) through (d) of this section.

(a) Emissions of particulate matter from any HNR HRSG main stack at a new HNR coke oven battery that exceeds 8.8E–04 gr/dscf at 10 percent oxygen or any HNR HRSG main stack at an existing HNR coke oven battery that exceeds 0.0049 gr/dscf at 10 percent oxygen.

(b) Emissions of mercury from any HNR HRSG main stack at a new HNR coke oven battery that exceeds 1.5E–06 gr/dscf at 10 percent oxygen or any HNR HRSG main stack at an existing HNR coke oven battery that exceeds 3.0E–06 gr/dscf at 10 percent oxygen.

(c) Emissions of total acid gases from any HNR HRSG main stack at a new HNR coke oven battery that exceeds 0.0034 gr/dscf at 10 percent oxygen or any HNR HRSG main stack at an existing HNR coke oven battery that exceeds 0.049 gr/dscf at 10 percent oxygen.

(d) Emissions of total PAHs from any HNR HRSG main stack at a new HNR coke oven battery that exceeds 4.7E–07 gr/dscf at 10 percent oxygen or any HRSG main stack at existing HNR coke oven battery that exceeds 4.8E–07 gr/dscf at 10 percent oxygen.

§ 63.7298 What emission limitations must I meet for HNR HRSG bypass/waste heat stacks?

You must not discharge to the atmosphere any emissions from any HNR HRSG bypass/waste heat stack at a new or existing HNR coke oven battery that exhibit emissions greater than the applicable limits in paragraphs (a) through (e) of this section.

(a) Emissions of particulate matter from any HNR HRSG bypass/waste heat stack at a new HNR coke oven battery that exceeds 0.022 gr/dscf at 10 percent oxygen or any HNR HRSG bypass/waste heat stack at an existing HNR coke battery that exceeds 0.032 gr/dscf at 10 percent oxygen.

(b) Emissions of mercury from any HNR HRSG bypass/waste heat stack at a new HNR coke oven battery that exceeds 8.6E–06 gr/dscf at 10 percent oxygen or any HNR HRSG bypass/waste heat stack at an existing HNR coke oven battery that exceeds 1.2E–05 gr/dscf at 10 percent oxygen.

(c) Emissions of total acid gases from any HNR HRSG bypass/waste heat stack at a new HNR coke oven battery that exceeds 0.12 gr/dscf at 10 percent oxygen or any HNR HRSG bypass/waste heat stack at an existing HNR coke battery that exceeds 0.095 gr/dscf at 10 percent oxygen.

(d) Emissions of total PAHs from any HNR HRSG bypass/waste heat stack at a new or existing HNR coke oven battery that exceeds 2.7E–06 gr/dscf at 10 percent oxygen.

(e) Emissions of formaldehyde from any HNR HRSG bypass/waste heat stack at a new HNR coke oven battery that exceeds 1.8E–05 gr/dscf at 10 percent oxygen or any HNR HRSG bypass/waste heat stack at an existing HNR coke oven battery that exceeds 0.0012 gr/dscf at 10 percent oxygen.

§ 63.7299 What opacity limitations must I meet for HNR HRSG bypass/waste heat stacks?

The owner or operator shall observe the exhaust stack of each bypass or waste heat stacks once each week that exhaust is emitted through each stack continuously for more than an hour. The observation shall be made when exhaust is being emitted through the bypass or waste heat stack to determine if opacity, as a 6-minute average measured according to EPA Method 9 in appendix A–4 to 40 CFR part 60, exceeds 20 percent opacity. The owner or operator shall record the results of each observation. If a bypass event does not occur during a week or does not exceed one hour in duration, then no measurement is required for that week. If exhaust is emitted through any bypass or waste heat stack continuously for more than an hour during a week and no opacity measurement has been performed, the owner or operator shall record in the operating record the reason why conditions did not permit an opacity observation. If opacity greater than 20 percent opacity is observed during any weekly measurement, the owner or operator must:

(a) Take corrective action to reduce the emissions contributing to the opacity;

(b) Record the cause of opacity exceeding 20 percent and the corrective action taken; and

(c) Report opacity exceedances in any HNR HRSG bypass or HNR waste heat stacks in the quarterly semiannual compliance report required by § 63.7341.

■ 22. Section 63.7300 is amended by revising paragraph (a) and (c) to read as follows:

§ 63.7300 What are my operation and maintenance requirements?

(a) As required by § 63.7310(a) you must always operate and maintain your affected source, including air pollution control and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart.

* * * * *

(c) You must prepare and operate at all times according to a written operation and maintenance plan for each capture system and control device applied to pushing emissions from a new or existing coke oven battery. Each plan must address at a minimum the elements in paragraphs (c)(1) through (4) of this section.

(1) Monthly inspections of the equipment that are important to the performance of the total capture system (*e.g.,* pressure sensors, dampers, and damper switches). This inspection must include observations of the physical appearance of the equipment (*e.g.,* presence of holes in ductwork or hoods, flow constrictions caused by dents or accumulated dust in ductwork, and fan erosion). In the event a defect or deficiency is found in the capture system (during a monthly inspection or between inspections), you must complete repairs within 30 days after the date that the defect or deficiency is discovered. If you determine that the repairs cannot be completed within 30 days, you must submit a written request for an extension of time to complete the repairs that must be received by the permitting authority not more than 20 days after the date that the defect or deficiency is discovered. The request must contain a description of the defect or deficiency, the steps needed and taken to correct the problem, the interim steps being taken to mitigate the emissions impact of the defect or deficiency, and a proposed schedule for completing the repairs. The request shall be deemed approved unless and until such time as the permitting authority notifies you that it objects to the request. The permitting authority may consider all relevant factors in deciding whether to approve or deny the request (including feasibility and safety). Each approved schedule must provide for completion of repairs as expeditiously as practicable, and the permitting authority may request modifications to the proposed schedule as part of the approval process.

(2) Preventative maintenance for each control device, including a preventative maintenance schedule that is consistent with the manufacturer's instructions for routine and long-term maintenance.

(3) Corrective action for all baghouses applied to pushing emissions. In the event a bag leak detection system alarm is triggered, you must initiate corrective action to determine the cause of the alarm within 1 hour of the alarm, initiate corrective action to correct the cause of the problem within 24 hours of the alarm, and complete the corrective action as soon as practicable. Actions may include, but are not limited to:

(i) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media or otherwise repairing the control device.

(iv) Sealing off a defective baghouse compartment.

(v) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system.

(vi) Shutting down the process producing the particulate emissions.

(4) Beginning January 5, 2026, you must identify and implement a set of site-specific good combustion practices for each battery. These good combustion practices should correspond to your standard operating procedures for maintaining the proper and efficient combustion within battery waste heat flues. Good combustion practices include, but are not limited to, the elements listed in paragraphs (c)(4)(i) through (v) of this section.

(i) Proper operating conditions for each battery (*e.g.,* minimum combustion temperature, burner alignment, or proper fuel-air distribution/mixing).

(ii) Routine inspection and preventative maintenance and corresponding schedules of each battery.

(iii) Performance analyses of each battery.

(iv) Maintaining applicable operator logs.

(v) Maintaining applicable records to document compliance with each element.

* * * * *

■ 23. Section 63.7310 is revised to read as follows:

§ 63.7310 What are my general requirements for complying with this subpart?

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

(b) During the period between the compliance date specified for your affected source in § 63.7283 and the date upon which continuous monitoring systems have been installed and certified and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

■ 24. Section 63.7320 is amended by revising paragraph (a) to read as follows:

§ 63.7320 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) As required in § 63.7(a)(2), you must conduct a performance test to demonstrate compliance with each limit in:

(1) Section 63.7290(a) through (e) for emissions of particulate matter, mercury, total acid gases, HCN, and total PAH from a control device applied to pushing emissions that applies to you within 180 calendar days after the compliance date that is specified in § 63.7283.

(2) Section 63.7296(c) through (f) for emissions of particulate matter, mercury, total acid gases, and HCN from a battery stack that applies to you within 180 calendar days after the compliance date that is specified in § 63.7283.

(3) Section 63.7297(a) through (d) for emissions of mercury, particulate matter, total acid gases, and total PAH from a HNR HRSG main stack that applies to you within 180 calendar days after the compliance date that is specified in § 63.7283.

(4) Section 63.7298(a) through (e) for emissions of mercury, particulate matter, total acid gases, total PAH, and formaldehyde from a HNR HRSG bypass/waste heat stack that applies to you within 180 calendar days after the compliance date that is specified in § 63.7283.

* * * * *

■ 25. Section 63.7321 is revised to read as follows:

§ 63.7321 When must I conduct subsequent performance tests?

(a) For each control device subject to an emission limit for particulate matter in § 63.7290(a), you must conduct subsequent performance tests no less frequently than once every 5 years or at the beginning of each term of your title V operating permit, whichever is less.

(b) For each source subject to emission limits in §§ 63.7290(b) through (d), 63.7296(c) through (f), 63.7297(a) through (d), and 63.7298(a) through (e) for capture systems and control devices applied to pushing emissions, battery stacks, HNR HRSG main stacks, and HNR HRSG bypass/waste heat stacks sources, respectively, you must conduct subsequent performance tests once every five years.

■ 26. Section 63.7322 is revised to read as follows:

§ 63.7322 What test methods and other procedures must I use to demonstrate initial compliance with the emission limits?

(a) You must conduct each performance test that applies to your affected source based on representative performance (*i.e.,* performance based on the entire range of normal operating conditions) of the affected source for the period being tested, according to the requirements in paragraph (b) through (g) of this section. Representative conditions exclude periods of startup and shutdown. You shall not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent the entire range of normal operation, including operational conditions for maximum emission if such emissions are not expected during maximum production. You shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(b) To determine compliance with the emission limit for particulate matter from a control device applied to pushing emissions where a cokeside shed is the capture system, battery stack, HNR HRSG main stack, and HNR HRSG bypass/waste heat stack, follow the test methods and procedures in paragraphs (b)(1) and (2) of this section.

To determine compliance with a process-weighted mass rate of particulate matter (lb/ton of coke) from a control device applied to pushing emissions where a cokeside shed is not used, follow the test methods and procedures in paragraphs (b)(1) through (4) of this section.

(1) Determine the concentration of particulate matter according to the following test methods in appendices A–1 through A–3 to 40 CFR part 60.

(i) Method 1 to select sampling port locations and the number of traverse points. Sampling sites must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2F, or 2G to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas. You may also use as an alternative to Method 3B, the manual method (but not instrumental procedures) for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas, ANSI/ASME PTC 19.10–1981 (incorporated by reference, see § 63.14).

(iv) Method 4 to determine the moisture content of the stack gas.

(v) Method 5 or 5D, as applicable, to determine the concentration of filterable particulate matter in the stack gas.

(2) Collect a minimum sample volume of 30 dry standard cubic feet of gas during each test run. Three valid test runs are needed to comprise a performance test. During each particulate matter test run to meet the emission limitations in § 63.7290, sample only during periods of actual pushing when the capture system fan and control device are engaged. For capture systems and control devices applied to pushing emissions each run must start at the beginning of a push and finish at the end of a push (*i.e.,* sample for an integral number of pushes).

(3) Determine the total combined weight in tons of coke pushed during the duration of each test run according to the procedures in your source test plan for calculating coke yield from the quantity of coal charged to an individual oven.

(4) Compute the process-weighted mass emissions ($E_{p, PM}$) for each test run using equation 1 to this paragraph (b)(4) as follows:

Equation 1 to Paragraph (b)(4)

$$E_{p,PM}=(C_{PM}\times Q\times \Theta)/(P\times K) \quad \text{(Eq. 1)}$$

Where:

$E_{p, PM}$ = Process weighted mass emissions of particulate matter, lb/ton;

C_{PM} = Concentration of particulate matter, gr/dscf;

Q = Volumetric flow rate of stack gas, dscf/hr;

Θ = Total sampling run time; the time during a run that a sample is withdrawn from the stack during pushing, hr;

P = Total amount of coke pushed during the test run, tons; and

K = Conversion factor, 7,000 gr/lb.

(c) To determine compliance with the emission limit for mercury from a control device applied to pushing emissions where a cokeside shed is the capture system, battery stack, HNR HRSG main stack, and HNR HRSG bypass/waste heat stack, follow the test methods and procedures in paragraphs (c)(1) and (2) of this section. To determine compliance with a process-weighted mass rate of mercury (lb/ton of coke) from a control device applied to pushing emissions and battery stack, follow the test methods and procedures in paragraphs (c)(1) through (4) of this section.

(1) Determine the concentration of mercury according to the following test methods.

(i) The methods specified in sections (b)(1)(i) through (iv) of this section.

(ii) Method 29 in appendix A–8 to 40 CFR part 60, to determine the concentration of mercury in the stack gas. The voluntary consensus standard ASTM D6784–16 (incorporated by reference, see § 63.14) is an acceptable alternative to EPA Method 29 (portion for mercury only) as a method for measuring mercury, note: applies to concentrations approximately 0.5—100 µg/Nm3.

(2) Collect a minimum sample volume of 70 dry standard cubic feet of gas during each mercury test run. Three valid test runs are needed to comprise a performance test. During each mercury test run to meet the emission limitations in § 63.7290, sample only during periods of actual pushing when the capture system fan and control device are engaged. For capture systems and control devices applied to pushing emissions each run must start at the beginning of a push and finish at the end of a push (*i.e.,* sample for an integral number of pushes).

(3) Determine the total combined weight in tons of coke pushed during the duration of each test run according to the procedures in your source test plan for calculating coke yield from the quantity of coal charged to an individual oven.

(4) Compute the process-weighted mass emissions ($E_{p,Hg}$) for each test run using equation 2 to this paragraph (c)(4) as follows:

Equation 2 to Paragraph (c)(4)

$$E_{p,Hg}=(C_{Hg}\times Q\times \Theta)/(P\times K) \quad \text{(Eq. 2)}$$

Where:

$E_{p,Hg}$ = Process weighted mass emissions of mercury, lb/ton;

C_{Hg} = Concentration of mercury, gr/dscf;

Q = Volumetric flow rate of stack gas, dscf/hr;

Θ = Total sampling run time; the time during a run that a sample is withdrawn from the stack, for capture systems and control devices applied to pushing emissions, total time during a run that a sample is withdrawn from the stack during pushing, hr;

P = Total amount of coke pushed during the test run, tons; and

K = Conversion factor, 7,000 gr/lb.

(d) To determine compliance with the emission limit for total acid gases from a HNR HRSG main stack and HNR HRSG bypass/waste heat stack, follow the test methods and procedures in paragraphs (d)(1) and (2) of this section. To determine compliance with a process-weighted mass rate of total acid gases (lb/ton of coke) from a control device applied to pushing emissions and battery stack, follow the test methods and procedures in paragraphs (d)(1) through (4) of this section.

(1) Determine the concentration of total acid gases according to the following test methods.

(i) The methods specified in sections (b)(1)(i) through (iv) of this section.

(ii) Methods 26 or 26A in appendix A–8 to 40 CFR part 60, or Method 320 in appendix A to this part, to determine the concentration of total acid gases in the stack gas. The voluntary consensus standard ASTM D6348–12 (Reapproved 2020) (incorporated by reference, see § 63.14) is an acceptable alternative to Method 320 at this time with caveats requiring inclusion of selected annexes to the standard as mandatory. When using ASTM D6348–12 (Reapproved 2020), the following conditions must be met:

(A) The test plan preparation and implementation in the Annexes to ASTM D6348–12 (Reapproved 2020), Annexes A1 through A8 are mandatory; and

(B) In ASTM D6348–12 (Reapproved2020) Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5).

(C) In order for the test data to be acceptable for a compound, % R must be greater than or equal to 70% and less than or equal to 130%. If the % R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte

(*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The % R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated % R value for that compound by using equation 3 to this paragraph (d)((1)(ii)(C):

Equation 3 to Paragraph (d)((1)(ii)(C)

Reported Results = ((Measured Concentration in Stack)/(% R)) × 100.

(2) Collect a minimum sample volume of 35 dry standard cubic feet of gas during each test run for Method 26 and 26A in appendix A–8 to 40 CFR part 60. For Method 320 in appendix A to this part and ASTM D6348–12 (Reapproved 2020) (incorporated by reference, see § 63.14), each test run must be a minimum of one hour in duration. Three valid test runs are needed to comprise a performance test. During each total acid gases test run to meet the emission limitations in § 63.7290, sample only during periods of pushing when the capture system fan and control device are engaged. For capture systems and control devices applied to pushing emissions each run must start at the beginning of a push and finish at the end of a push (*i.e.,* sample for an integral number of pushes).

(3) Determine the total combined weight in tons of coke pushed during the duration of each test run according to the procedures in your source test plan for calculating coke yield from the quantity of coal charged to an individual oven.

(4) Compute the process-weighted mass emissions ($E_{p,AG}$) for each test run using equation 4 to this paragraph (d)(4) as follows:

Equation 4 to Paragraph (d)(4)

$$E_{p,AG}=(C_{AG}\times Q\times \Theta)/(P\times K) \quad \text{(Eq. 4)}$$

Where:

$E_{p,AG}$ = Process weighted mass emissions of total acid gases, lb/ton;
C_{AG} = Concentration of total acid gases, gr/dscf;
Q = Volumetric flow rate of stack gas, dscf/hr;
Θ = Total sampling run time; the time during a run that a sample is withdrawn from the stack, for capture systems and control devices applied to pushing emissions, total time during a run that a sample is withdrawn from the stack during pushing, hr;
P = Total amount of coke pushed during the test run, tons; and
K = Conversion factor, 7,000 gr/lb.

(e) To determine compliance with a process-weighted mass rate of hydrogen cyanide (lb/ton of coke) from a control device applied to pushing emissions and battery stack, follow the test methods and procedures in paragraphs (e)(1) through (4) of this section.

(1) Determine the concentration of hydrogen cyanide according to the following test methods.

(i) The methods specified in sections (b)(1)(i) through (iv) of this section.

(ii) Method 320 in appendix A to this part, to determine the concentration of hydrogen cyanide in the stack gas. The voluntary consensus standard ASTM D6348–12 (Reapproved 2020) (incorporated by reference, see § 63.14) is an acceptable alternative to Method 320 at this time with caveats requiring inclusion of selected annexes to the standard as mandatory. When using ASTM D6348–12 (Reapproved 2020), the following conditions must be met:

(A) The test plan preparation and implementation in the Annexes to ASTM D6348–12 (Reapproved 2020), Annexes A1 through A8 are mandatory; and

(B) In ASTM D6348–12 (Reapproved 2020) Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5).

(C) In order for the test data to be acceptable for a compound, % R must be greater than or equal to 70% and less than or equal to 130%. If the % R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The % R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated % R value for that compound by using equation 5 to this paragraph (e)(1)(ii)(C):

Equation 5 to Paragraph (e)(1)(ii)(C)

Reported Results = ((Measured Concentration in Stack)/(% R)) × 100.

(2) Collect a minimum of eight spectra for each of six runs (or hours) evenly spaced over the test period for Method 320 in appendix A to this part or alternatively ASTM D6348–12 (Reapproved 2020) (incorporated by reference, see § 63.14). Three valid test runs are needed to comprise a performance test. During each hydrogen cyanide test run to meet the emission limitations in § 63.7290, sample only during periods of actual pushing when the capture system fan and control device are engaged. For capture systems and control devices applied to pushing emissions each run must start at the beginning of a push and finish at the end of a push (*i.e.,* sample for an integral number of pushes).

(3) Determine the total combined weight in tons of coke pushed during the duration of each test run according to the procedures in your source test plan for calculating coke yield from the quantity of coal charged to an individual oven.

(4) Compute the process-weighted mass emissions ($E_{p,HCN}$) for each test run using equation 6 to this paragraph (e)(4) as follows:

Equation 6 to Paragraph (e)(4)

$$E_{p,HCN}=(C_{HCN}\times Q\times \Theta)/(P\times K) \quad \text{(Eq. 6)}$$

Where:

$Ep_{,HCN}$ = Process weighted mass emissions of hydrogen cyanide, lb/ton;
C_{HCN} = Concentration of hydrogen cyanide, gr/dscf;
Q = Volumetric flow rate of stack gas, dscf/hr;
Θ = Total sampling run time; the time during a run that a sample is withdrawn from the stack, for capture systems and control devices applied to pushing emissions, total time during a run that a sample is withdrawn from the stack during pushing, hr;
P = Total amount of coke pushed during the test run, tons; and
K = Conversion factor, 7,000 gr/lb.

(f) To determine compliance with the emission limit for total PAH from a HNR HRSG main stack and HNR HRSG bypass/waste heat stack, follow the test methods and procedures in paragraphs (f)(1) and (2) of this section. To determine compliance with a process-weighted mass rate of total PAH (lb/ton of coke) from a control device applied to pushing emissions, follow the test methods and procedures in paragraphs (f)(1) through (4) of this section.

(1) Determine the concentration of total PAH, the sum of 17 PAH compounds listed at § 63.7290(e), according to the following test methods.

(i) The methods specified in sections (b)(1)(i) through (iv) of this section.

(ii) Method 23 in appendix A–7 to 40 CFR part 60, to determine the concentration of total PAH in the stack gas.

(2) Collect a minimum sample volume of 105 dry standard cubic feet of gas during each test run for total PAH. Three valid test runs are needed to comprise a performance test. During each total PAH test run to meet the emission limitations in § 63.7290, sample only during periods of actual pushing when the capture system fan and control device are engaged. For capture systems and control devices applied to pushing emissions each run must start at the beginning of a push

and finish at the end of a push (*i.e.,* sample for an integral number of pushes). When calculating total PAH, the estimated level of detection (EDL) shall be used for each PAH measured below the EDL.

(3) Determine the total combined weight in tons of coke pushed during the duration of each test run according to the procedures in your source test plan for calculating coke yield from the quantity of coal charged to an individual oven.

(4) Compute the process-weighted mass emissions ($E_{p,PAH}$) for each test run using equation 7 to this paragraph (f)(4) as follows:

Equation 7 to Paragraph (f)(4)

$$E_{p,PAH}=(\Sigma(C_{PAH}\times Q\times O))/(P\times K) \quad \text{(Eq. 7)}$$

Where:

$E_{p,PAH}$ = Process weighted mass emissions of total PAH, lb/ton;
C_{PAH} = Concentration of each PAH, gr/dscf;
Q = Volumetric flow rate of stack gas, dscf/hr;
Θ = Total sample run time; the time during a run that a sample is withdrawn from the stack during pushing, hr;
P = Total amount of coke pushed during the test run, tons; and
K = Conversion factor, 7,000 gr/lb.

(g) To determine compliance with the emission limit for formaldehyde from a HNR HRSG bypass/waste heat stack, follow the test methods and procedures in paragraphs (h)(1) and (2) of this section.

(1) Determine the concentration of formaldehyde according to the following test methods.

(i) The methods specified in sections (b)(1)(i) through (iv) of this section.

(ii) Method 316 or Method 320 in appendix A to this part, to determine the concentration of formaldehyde in the stack gas. The voluntary consensus standard ASTM D6348–12 (Reapproved 2020) (incorporated by reference, see § 63.14) is an acceptable alternative to Method 320 at this time with caveats requiring inclusion of selected annexes to the standard as mandatory. When using ASTM D6348–12 (Reapproved 2020), the following conditions must be met:

(A) The test plan preparation and implementation in the Annexes to ASTM D6348–12 (Reapproved 2020), Annexes A1 through A8 are mandatory; and

(B) In ASTM D6348–12 (Reapproved 2020) Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5).

(C) In order for the test data to be acceptable for a compound, % R must be greater than or equal to 70% and less than or equal to 130%. If the % R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The % R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated % R value for that compound by using equation 8 to this paragraph (g)(1)(ii)(C):

Equation 8 to Paragraph (g)(1)(ii)(C)

Reported Results = ((Measured Concentration in Stack)/(% R)) × 100.

(2) Sample time should ensure that minimum quantification levels have been met under the methods used during each test run, for Method 320 in appendix A to this part or ASTM D6348–12 (Reapproved 2020) (incorporated by reference, see § 63.14), each test run must be at least one hour in duration. Three valid test runs are needed to comprise a performance test.

■ 27. Section 63.7323 is amended by revising paragraphs (c)(1) through (3) to read as follows:

§ 63.7323 What procedures must I use to establish operating limits?

* * * * *

(c) * * *

(1) If you elect the operating limit in § 63.7290(f)(3) for volumetric flow rate, measure and record the total volumetric flow rate at the inlet of the control device during each push sampled for each particulate matter test run. Your operating limit is the lowest volumetric flow rate recorded during any of the three runs that meet the emission limit.

(2) If you elect the operating limit in § 63.7290(f)(3)(i) for fan motor amperes, measure and record the fan motor amperes during each push sampled for each particulate matter test run. Your operating limit is the lowest fan motor amperes recorded during any of the three runs that meet the emission limit.

(3) If you elect the operating limit in § 63.7290(f)(3)(ii) for static pressure or fan RPM, measure and record the static pressure at the inlet of the control device or fan RPM during each push sampled for each particulate matter test run. Your operating limit for static pressure is the minimum vacuum recorded during any of the three runs that meets the emission limit. Your operating limit for fan RPM is the lowest fan RPM recorded during any of the three runs that meets the emission limit.

* * * * *

■ 28. Section 63.7324 is amended by revising paragraph (a) to read as follows:

§ 63.7324 What procedures must I use to demonstrate initial compliance with the opacity limits?

(a) You must conduct each performance test that applies to your affected source based on representative performance (*i.e.,* performance based on the entire range of normal operating conditions) of the affected source for the period being tested, according to the requirements in paragraph (b) of this section. Representative conditions exclude periods of startup and shutdown. You shall not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent the entire range of normal operation, including operational conditions for maximum emissions if such emissions are not expected during maximum production. You shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 29. Section 63.7325 is amended by revising paragraph (a) introductory text to read as follows:

§ 63.7325 What test methods and other procedures must I use to demonstrate initial compliance with the TDS or constituent limits for quench water?

(a) If you elect the TDS limit for quench water in § 63.7295(a)(1)(i), you must conduct each performance test that applies to your affected source based on representative performance (*i.e.,* performance based on the entire range of normal operating conditions) of the affected source for the period being tested, according to the conditions in paragraphs (a)(1) and (2) of this section. Representative conditions exclude periods of startup and shutdown. You shall not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent the entire range of normal operation, including operational conditions for maximum emissions if such emissions are not expected during maximum production. You shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 30. Section 63.7326 is revised to read as follows:

§ 63.7326 How do I demonstrate initial compliance with the emission limitations that apply to me?

(a) For each coke oven battery subject to the emission limits from a control device applied to pushing emissions, you have demonstrated initial compliance if you meet the requirements in paragraphs (a)(1) through (9) of this section that apply to you.

(1) The concentration of particulate matter, measured in accordance with the performance test procedures in § 63.7322(b)(1) and (2), did not exceed 0.01 gr/dscf for a control device where a cokeside shed is used to capture pushing emissions or the process-weighted mass rate of particulate matter (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(b)(1) through (4), did not exceed:

(i) 0.02 lb/ton of coke if a moveable hood vented to a stationary control device is used to capture emissions;

(ii) If a mobile scrubber car that does not capture emissions during travel is used, 0.03 lb/ton of coke from a control device applied to pushing emissions from a short coke oven battery or 0.01 lb/ton of coke from a control device applied to pushing emissions from a tall coke oven battery; and

(iii) 0.04 lb/ton of coke if a mobile control device that captures emissions during travel is used.

(2) The process-weighted mass rate of mercury (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(c)(1) through (4), did not exceed 3.4E–07 lb/ton coke for pushing emissions from a new coke oven battery or 8.9E–07 lb/ton coke for pushing emissions from an existing coke oven battery.

(3) The process-weighted mass rate of total acid gases, the sum of hydrochloric acid and hydrofluoric acid (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(d)(1) through (4), did not exceed 5.1E–04 lb/ton coke for pushing emissions from a new coke oven battery or 0.0052 lb/ton coke for pushing emissions from an existing coke oven battery.

(4) The process-weighted mass rate of hydrogen cyanide (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(e)(1) through (4), did not exceed 3.8E–05 lb/ton coke for pushing emissions from a new coke oven battery or 0.0011 lb/ton coke for pushing emissions from an existing coke oven battery.

(5) The process-weighted mass rate of total PAH (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(f)(1) through (4), did not exceed 1.4E–05 lb/ton coke for pushing emissions from a new coke oven battery or 3.4E–04 lb/ton coke for pushing emissions from an existing coke oven battery.

(6) For each venturi scrubber applied to pushing emissions, you have established appropriate site-specific operating limits and have a record of the pressure drop and scrubber water flow rate measured during the performance test in accordance with § 63.7323(a).

(7) For each hot water scrubber applied to pushing emissions, you have established appropriate site-specific operating limits and have a record of the water pressure and temperature measured during the performance test in accordance with § 63.7323(b).

(8) For each capture system applied to pushing emissions, you have established an appropriate site-specific operating limit, and:

(i) If you elect the operating limit in § 63.7290(f)(3) for volumetric flow rate, you have a record of the total volumetric flow rate at the inlet of the control device measured during the performance test in accordance with § 63.7323(c)(1); or

(ii) If you elect the operating limit in § 63.7290(f)(3)(i) for fan motor amperes, you have a record of the fan motor amperes during the performance test in accordance with § 63.7323(c)(2); or

(iii) If you elect the operating limit in § 63.7290(f)(3)(ii) for static pressure or fan RPM, you have a record of the static pressure at the inlet of the control device or fan RPM measured during the performance test in accordance with § 63.7323(c)(3).

(9) For each multicyclone applied to pushing emissions, you have established an appropriate site-specific operating limit and have a record of the pressure drop measured during the performance test in accordance with § 63.7323(d).

(b) For each new or existing by-product coke oven battery subject to the emission limits in § 63.7296, you have demonstrated initial compliance if you meet the requirements in paragraphs (b)(1) through (5) of this section.

(1) The opacity limit for stacks in § 63.7296(a), you have demonstrated initial compliance if the daily average opacity, as measured according to the performance test procedures in § 63.7324(b), is no more than 15 percent for a battery on a normal coking cycle or 20 percent for a battery on batterywide extended coking.

(2) The concentration of particulate matter, measured in accordance with the performance test procedures in § 63.7322(b)(1) and (2), did not exceed 0.013 gr/dscf at 10 percent oxygen from a battery stack at a new by-product coke oven battery or 0.13 gr/dscf at 10 percent oxygen from a battery stack at an existing by-product coke oven battery.

(3) The process-weighted mass rate of mercury (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(c)(1) through (4), did not exceed 7.1E–06 lb/ton coke from a battery stack at a new by-product coke oven battery or 4.5E–05 lb/ton coke from a battery stack at an existing by-product coke oven battery.

(4) The process-weighted mass rate of total acid gases (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(d)(1) through (4), did not exceed 0.013 lb/ton coke from a battery stack at a new by-product coke oven battery or 0.16 lb/ton coke from a battery stack at an existing by-product coke oven battery.

(5) The process-weighted mass rate of hydrogen cyanide (lb/ton of coke), measured in accordance with the performance test procedures in § 63.7322(e)(1) through (4), did not exceed 7.4E–04 lb/ton coke from a battery stack at a new by-product coke oven battery or 0.032 lb/ton coke from a battery stack at an existing by-product coke oven battery.

(c) For each new or existing by-product coke oven battery subject to the TDS limit or constituent limits for quench water in § 63.7295(a)(1),

(1) You have demonstrated initial compliance with the TDS limit in § 63.7295(a)(1)(i) if the TDS concentration, as measured according to the performance test procedures in § 63.7325(a), does not exceed 1,100 mg/L.

(2) You have demonstrated initial compliance with the constituent limit in § 63.7295(a)(1)(ii) if:

(i) You have established a site-specific constituent limit according to the procedures in § 63.7325(b); and

(ii) The sum of the constituent concentrations, as measured according to the performance test procedures in § 63.7325(c), is less than or equal to the site-specific limit.

(d) For each new or existing HNR HRSG main stack subject to the emission limits in § 63.7297, you have demonstrated initial compliance if you meet the requirements in paragraphs (d)(1) through (4) of this section.

(1) The concentration of particulate matter, measured in accordance with the performance test procedures in § 63.7322(b)(1) and (2), did not exceed 8.8E–04 gr/dscf at 10 percent oxygen from a HNR HRSG main stack at a new HNR coke battery or 0.0049 gr/dscf at 10 percent oxygen at a HNR HRSG main stack at an existing HNR coke oven battery.

(2) The concentration of mercury, measured in accordance with the performance test procedures in § 63.7322(c)(1) and (2), did not exceed 1.5E–06 gr/dscf at 10 percent oxygen from a HNR HRSG main stack at a new HNR coke battery or 3.0E–06 gr/dscf at 10 percent oxygen at a HNR HRSG main stack at an existing HNR HRSG.

(3) The concentration of total acid gases, measured in accordance with the performance test procedures in § 63.7322(d)(1) and (2), did not exceed 3.4E–03 gr/dscf at 10 percent oxygen from a HNR HRSG main stack at a new coke oven battery or 4.9E–02 gr/dscf at 10 percent oxygen at a HNR HRSG main stack at an existing HNR coke oven battery.

(4) The concentration of total PAHs, measured in accordance with the performance test procedures in § 63.7322(f)(1) and (2), did not exceed 4.7E–07 gr/dscf at 10 percent oxygen from a HNR HRSG main stack at a new coke oven battery or 4.8E–07 gr/dscf at 10 percent oxygen at a HNR HRSG main stack at an existing HNR coke oven battery.

(e) For each HNR HRSG bypass/waste heat stack through which emissions are discharged from a new or existing coke oven battery subject to the emission limits in § 63.7298, you have demonstrated initial compliance if you meet the requirements in paragraphs (e)(1) through (5) of this section.

(1) The concentration of particulate matter, measured in accordance with the performance test procedures in § 63.7322(b)(1) and (2), did not exceed 0.022 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at a new HNR coke oven battery or 0.032 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at an existing HNR coke oven battery.

(2) The concentration of mercury, measured in accordance with the performance test procedures in § 63.7322(c)(1) and (2), did not exceed 8.6E–06 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at a new HNR coke oven battery or 1.2E–05 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at an existing HNR coke battery.

(3) The concentration of total acid gases, measured in accordance with the performance test procedures in § 63.7322(d)(1) and (2), did not exceed 0.12 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at a new HNR coke oven battery or 0.095 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at an existing HNR coke oven battery.

(4) The concentration of total PAHs, measured in accordance with the performance test procedures in § 63.7322(f)(1) and (2), did not exceed 2.7E–06 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at a new coke oven battery or existing HNR coke oven battery.

(5) The concentration of formaldehyde, measured in accordance with the performance test procedures in § 63.7322(g)(1) and (2), did not exceed 1.8E–05 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at a new HNR coke oven battery or 0.0012 gr/dscf at 10 percent oxygen from a HNR HRSG bypass/waste heat stack at an existing HNR coke oven battery.

(f) For each by-product coke oven battery stack subject to an opacity limit in § 63.7296(a) and each by-product coke oven battery subject to the requirements for quench water in § 63.7295(a)(1), you must submit a notification of compliance status containing the results of the COMS performance test for battery stacks and the quench water performance test (TDS or constituent limit) according to § 63.7340(e)(1). For each particulate matter, mercury, total acid gases, hydrogen cyanide, total PAHs, or formaldehyde emission limitation that applies to you, you must submit a notification of compliance status containing a summary of the results of the performance test according to § 63.7340(e)(2).

■ 31. Section 63.7327 is amended by revising paragraph (c) to read as follows:

§ 63.7327 How do I demonstrate initial compliance with the work practice standards that apply to me?

* * * * *

(c) For each nonrecovery coke oven battery subject to the work practice standards for fugitive pushing emissions in § 63.7293(a), you have demonstrated initial compliance if you certify in your notification of compliance status that you will meet each of the work practice requirements beginning no later than the compliance date that is specified in § 63.7283.

* * * * *

■ 32. Section 63.7331 is amended by revising paragraphs (b)(4) through (6) and (g) through (i) to read as follows:

§ 63.7331 What are the installation, operation, and maintenance requirements for my monitors?

* * * * *

(b) * * *

(4) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1)(ii), (3), (4)(ii), (7), and (8);

(5) Ongoing data quality assurance procedures in accordance with the general requirements of §§ 63.8(d)(1) and (2) and 63.7342(b)(3); and

(6) Ongoing recordkeeping and reporting procedures in accordance the general requirements of § 63.10(c)(1) through (14) and (e)(1) and (2)(i).

* * * * *

(g) If you elect the operating limit in § 63.7290(f)(3) for a capture system applied to pushing emissions, you must install, operate, and maintain a device to measure the total volumetric flow rate at the inlet of the control device.

(h) If you elect the operating limit in § 63.7290(f)(3)(i) for a capture system applied to pushing emissions, you must install, operate, and maintain a device to measure the fan motor amperes.

(i) If you elect the operating limit in § 63.7290(f)(3)(ii) for a capture system applied to pushing emissions, you must install, operate and maintain a device to measure static pressure at the inlet of the control device or the fan RPM.

* * * * *

■ 33. Section 63.7333 is revised to read as follows:

§ 63.7333 How do I demonstrate continuous compliance with the emission limitations that apply to me?

(a) For each control device applied to pushing emissions and subject to the emission limit in § 63.7290(a), you must demonstrate continuous compliance by meeting the requirements in paragraphs (a)(1) and (2) of this section:

(1) Maintaining emissions of particulate matter at or below the applicable limits in paragraphs § 63.7290(a)(1) through (4); and

(2) Conducting subsequent performance tests to demonstrate continuous compliance no less frequently than at the beginning of your title V operating permit or every 5 years, whichever is less.

(b) For each control device applied to pushing emissions and subject to the emission limits in § 63.7290(b) through (e), you must demonstrate continuous compliance by meeting the requirements in paragraphs (b)(1) through (5) of this section:

(1) Maintaining emissions of mercury at or below the applicable limits in § 63.7290(b);

(2) Maintaining emissions of total acid gases at or below the applicable limits in § 63.7290(c);

(3) Maintaining emissions of hydrogen cyanide at or below the applicable limits in § 63.7290(d);

(4) Maintaining emissions of total PAHs at or below the applicable limits in § 63.7290(e); and

(5) Conducting subsequent performance tests to demonstrate continuous compliance once every five years.

(c) For each venturi scrubber applied to pushing emissions and subject to the operating limits in § 63.7290(f)(1), you must demonstrate continuous compliance by meeting the requirements in paragraphs (c)(1) through (3) of this section.

(1) Maintaining the daily average pressure drop and scrubber water flow rate at levels no lower than those established during the initial or subsequent performance test.

(2) Operating and maintaining each CPMS according to § 63.7331(b) and recording all information needed to document conformance with these requirements.

(3) Collecting and reducing monitoring data for pressure drop and scrubber water flow rate according to § 63.7331(e)(1) through (3).

(d) For each hot water scrubber applied to pushing emissions and subject to the operating limits in § 63.7290(f)(2), you must demonstrate continuous compliance by meeting the requirements in paragraphs (d)(1) through (3) of this section.

(1) Maintaining the daily average water pressure and temperature at levels no lower than those established during the initial or subsequent performance test.

(2) Operating and maintaining each CPMS according to § 63.7331(b) and recording all information needed to document conformance with these requirements.

(3) Collecting and reducing monitoring data for water pressure and temperature according to § 63.7331(f).

(e) For each capture system applied to pushing emissions and subject to the operating limit in § 63.7290(f)(3), you must demonstrate continuous compliance by meeting the requirements in paragraph (e)(1), (2), or (3) of this section:

(1) If you elect the operating limit for volumetric flow rate in § 63.7290(f)(3):

(i) Maintaining the daily average volumetric flow rate at the inlet of the control device at or above the minimum level established during the initial or subsequent performance test; and

(ii) Checking the volumetric flow rate at least every 8 hours to verify the daily average is at or above the minimum level established during the initial or subsequent performance test and recording the results of each check.

(2) If you elect the operating limit for fan motor amperes in § 63.7290(f)(3)(i):

(i) Maintaining the daily average fan motor amperages at or above the minimum level established during the initial or subsequent performance test; and

(ii) Checking the fan motor amperage at least every 8 hours to verify the daily average is at or above the minimum level established during the initial or subsequent performance test and recording the results of each check.

(3) If you elect the operating limit for static pressure or fan RPM in § 63.7290(f)(3)(ii):

(i) Maintaining the daily average static pressure at the inlet to the control device at an equal or greater vacuum than established during the initial or subsequent performance test or the daily average fan RPM at or above the minimum level established during the initial or subsequent performance test; and

(ii) Checking the static pressure or fan RPM at least every 8 hours to verify the daily average static pressure at the inlet to the control device is at an equal or greater vacuum than established during the initial or subsequent performance test or the daily average fan RPM is at or above the minimum level established during the initial or subsequent performance test and recording the results of each check.

(f) Beginning on the first day compliance is required under § 63.7283, you must demonstrate continuous compliance for each by-product coke oven battery subject to the opacity limit for battery stacks in § 63.7296(a) by meeting the requirements in paragraphs (f)(1) and (2) of this section:

(1) Maintaining the daily average opacity at or below 15 percent for a battery on a normal coking cycle or 20 percent for a battery on batterywide extended coking; and

(2) Operating and maintaining a COMS and collecting and reducing the COMS data according to § 63.7331(j).

(g) For each battery stack subject to the emission limits in § 63.7296(c) through (f), you must demonstrate continuous compliance by meeting the requirements in paragraphs (g)(1) through (5) of this section:

(1) Maintaining emissions of particulate matter at or below the applicable limits in § 63.7296(c);

(2) Maintaining emissions of mercury at or below the applicable limits in § 63.7296(d);

(3) Maintaining emissions of total acid gases at or below the applicable limits in § 63.7296(e);

(4) Maintaining emissions of hydrogen cyanide at or below the applicable limits in § 63.7296(f); and

(5) Conducting subsequent performance tests to demonstrate continuous compliance once every five years.

(h) Beginning on the first day compliance is required under § 63.7283, you must demonstrate continuous compliance with the TDS limit for quenching in § 63.7295(a)(1)(i) by meeting the requirements in paragraphs (h)(1) and (2) of this section:

(1) Maintaining the TDS content of the water used to quench hot coke at 1,100 mg/L or less; and

(2) Determining the TDS content of the quench water at least weekly according to the requirements in § 63.7325(a) and recording the sample results.

(i) Beginning on the first day compliance is required under § 63.7283, you must demonstrate continuous compliance with the constituent limit for quenching in § 63.7295(a)(1)(ii) by meeting the requirements in paragraphs (i)(1) and (2) of this section:

(1) Maintaining the sum of the concentrations of benzene, benzo(a)pyrene, and naphthalene in the water used to quench hot coke at levels less than or equal to the site-specific limit approved by the permitting authority; and

(2) Determining the sum of the constituent concentrations at least monthly according to the requirements in § 63.7325(c) and recording the sample results.

(j) For each multicyclone applied to pushing emissions and subject to the operating limit in § 63.7290(f)(4), you must demonstrate compliance by meeting the requirements in paragraphs (j)(1) through (3) of this section.

(1) Maintaining the daily average pressure drop at a level at or below the level established during the initial or subsequent performance test.

(2) Operating and maintaining each CPMS according to § 63.7331(k) and recording all information needed to document conformance with these requirements.

(3) Collecting and reducing monitoring data for pressure drop according to § 63.7331(e)(1) through (3).

(k) For each HNR HRSG main stack subject to the emission limits in § 63.7297(a) through (d), you must demonstrate continuous compliance by

meeting the requirements in paragraphs (k)(1) through (5) of this section:

(1) Maintaining emissions of particulate matter at or below the applicable limits in § 63.7297(a);

(2) Maintaining emissions of mercury at or below the applicable limits in § 63.7297(b);

(3) Maintaining emissions of total acid gases at or below the applicable limits in § 63.7297(c);

(4) Maintaining emissions of total PAHs at or below the applicable limits in § 63.7297(d); and

(5) Conducting subsequent performance tests to demonstrate continuous compliance once every five years.

(l) For each HNR HRSG bypass/waste heat stack subject to the emission limits in § 63.7298(a) through (e), you must demonstrate continuous compliance by meeting the requirements in paragraphs (l)(1) through (6) of this section:

(1) Maintaining emissions of particulate matter at or below the applicable limits in § 63.7298(a);

(2) Maintaining emissions of mercury at or below the applicable limits in § 63.7298(b);

(3) Maintaining emissions of total acid gases at or below the applicable limits in § 63.7298(c);

(4) Maintaining emissions of total PAHs at or below the applicable limits in § 63.7298(d);

(5) Maintaining emissions of total formaldehyde at or below the applicable limits in § 63.7298(e); and

(6) Conducting subsequent performance tests to demonstrate continuous compliance once every five years.

■ 34. Section 63.7334 is amended by revising paragraphs (a)(3), (4), and (c) to read as follows:

§ 63.7334 How do I demonstrate continuous compliance with the work practice standards that apply to me?

(a) * * *

(3) Make all observations and calculations for opacity observations of fugitive pushing emissions in accordance with Method 9 in appendix A–4 to 40 CFR part 60 using a Method 9 certified observer unless you have an approved alternative procedure under paragraph (a)(7) of this section. Alternatively, ASTM D7520–16, (incorporated by reference, see § 63.14) may be used with the following conditions:

(i) During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(iii) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(iv) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of anyone reading and the average error must not exceed 7.5 percent opacity.

(v) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

(4) Record pushing opacity observations at 15-second intervals as required in section 2.4 of Method 9 in appendix A–4 to 40 CFR part 60. The requirement in section 2.4 of Method 9 for a minimum of 24 observations does not apply, and the data reduction requirements in section 2.5 of Method 9 do not apply. The requirement in § 63.6(h)(5)(ii)(B) for obtaining at least 3 hours of observations (thirty 6-minute averages) to demonstrate initial compliance does not apply. Alternatively, ASTM D7520–16, (incorporated by reference, see § 63.14) may be used with the following conditions:

(i) During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520–16 (incorporated by reference, see § 63.14), the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520–16 (incorporated by reference, see § 63.14).

(iii) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(iv) The owner or operator or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of anyone reading and the average error must not exceed 7.5 percent opacity.

(v) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference, see § 63.14) and these requirements is on the facility, DCOT operator, and DCOT vendor.

* * * * *

(c) For each nonrecovery coke oven battery subject to the work practice standards in § 63.7293(a), you must demonstrate continuous compliance by maintaining records that document each visual inspection of an oven prior to pushing and that the oven was not pushed unless there was no smoke in the open space above the coke bed and there was an unobstructed view of the door on the opposite side of the oven.

* * * * *

■ 35. Section 63.7336 is revised to read as follows:

§ 63.7336 What other requirements must I meet to demonstrate continuous compliance?

You must report each instance in which you did not meet each emission limitation in this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. You must also report each instance in which you did not meet each work practice standard or operation and maintenance requirement in this subpart that applies to you. These instances are deviations from the emission limitations (including operating limits), work practice

standards, and operation and maintenance requirements in this subpart. These deviations must be reported according to the requirements in § 63.7341.

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

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

(c) Record actions taken to minimize emissions in accordance with § 63.7310(a), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

■ 36. Section 63.7340 is amended by revising paragraph (e)(2) to read as follows:

§ 63.7340 What notifications must I submit and when?

* * * * *

(e) * * *

(2) For each initial compliance demonstration that does include a performance test, you must submit the notification of compliance status, including a summary of the performance test results, before the close of business on the 60th calendar day following completion of the performance test according to § 63.10(d)(2).

* * * * *

■ 37. Section 63.7341 is revised to read as follows:

§ 63.7341 What reports must I submit and when?

(a) *Compliance report due dates.* Unless the Administrator has approved a different schedule, you must submit quarterly compliance reports for battery stacks and semiannual compliance reports for all other affected sources to your permitting authority according to the requirements in paragraphs (a)(1) through (4) of this section.

(1) The first quarterly compliance report for battery stacks must cover the period beginning on the compliance date that is specified for your affected source in § 63.7283 and ending on the last date of the third calendar month. Each subsequent compliance report must cover the next calendar quarter.

(2) The first semiannual compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.7283 and ending on June 30 or December 31, whichever date comes first after the compliance date that is specified for your affected source. Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(3) All quarterly compliance reports for battery stacks must be postmarked or delivered no later than one calendar month following the end of the quarterly reporting period. All semiannual compliance reports must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(4) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (a)(1) through (4) of this section.

(b) *Quarterly compliance report contents.* Each quarterly report must provide information on compliance with the emission limitations for battery stacks in § 63.7296. The reports must include the information in paragraphs (c)(1) through (3), and as applicable, paragraphs (c)(4) through (8) of this section.

(c) *Semiannual compliance report contents.* Each compliance report must provide information on compliance with the emission limitations, work practice standards, and operation and maintenance requirements for all affected sources except battery stacks. The reports must include the information in paragraphs (c)(1) through (3) of this section, and as applicable, paragraphs (c)(4) through (8) of this section.

(1) Company name and address (including county).

(2) Statement by a responsible official, with the official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report. If your report is submitted via the Compliance and Emissions Data Reporting Interface (CEDRI), the certifier's electronic signature during the submission process replaces this requirement.

(3) Date of report and beginning and ending dates of the reporting period. You are no longer required to provide the date of report when the report is submitted via CEDRI.

(4) Beginning on January 2, 2025, if you failed to meet an applicable standard, the compliance report must include, for each instance, the start date, start time, and duration (in hours) of each failure. For each failure, the compliance report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(5) If there were no deviations from the continuous compliance requirements in § 63.7333(e) for battery stacks, a statement that there were no deviations from the emission limitations during the reporting period. If there were no deviations from the continuous compliance requirements in §§ 63.7333 through 63.7335 that apply to you (for all affected sources other than battery stacks), a statement that there were no deviations from the emission limitations, work practice standards, or operation and maintenance requirements during the reporting period.

(6) If there were no periods during which a continuous monitoring system (including COMS, continuous emission monitoring system (CEMS), or CPMS) was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which a continuous monitoring system was out-of-control during the reporting period.

(7) For each deviation from an emission limitation in this subpart (including quench water limits) and for each deviation from the requirements for work practice standards in this subpart that occurs at an affected source where you are not using a continuous monitoring system (including a COMS, CEMS, or CPMS) to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (7)(i) and (ii) of this section. This includes periods of startup, shutdown, and malfunction.

(i) The total operating time of each affected source during the reporting period.

(ii) Information on the duration and cause of deviations (including unknown cause, if applicable) as applicable and the corrective action taken.

(8) For each deviation from an emission limitation occurring at an affected source where you are using a continuous monitoring system (including COMS, CEMS, or CPMS) to comply with the emission limitation in this subpart, you must include the information in paragraphs (c)(4) and (8)(i) through (xii) of this section. This includes periods of startup, shutdown, and malfunction.

(i) The date and time that each malfunction started and stopped.

(ii) The start date, start time, and duration in hours that each continuous monitoring system (including COMS, CEMS, or CPMS) was inoperative, except for zero (low-level) and high-level checks.

(iii) The start date, start time, and duration in hours that each continuous monitoring system (including COMS, CEMS, or CPMS) was out-of-control, including the information in § 63.8(c)(8).

(iv) The date and time that each deviation started and stopped, the duration in hours, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(v) A summary of the total duration in hours of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(vi) A breakdown of the total duration in hours of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(vii) A summary of the total duration in hours of continuous monitoring system downtime during the reporting period and the total duration of continuous monitoring system downtime as a percent of the total source operating time during the reporting period.

(viii) An identification of each HAP that was monitored at the affected source.

(ix) A brief description of the process units.

(x) A brief description of the continuous monitoring system.

(xi) The date of the latest continuous monitoring system certification or audit.

(xii) A description of any changes in continuous monitoring systems, processes, or controls since the last reporting period.

(xiii) The total operating time of each affected source during the reporting period.

(d) [Reserved]

(e) *Part 70 monitoring report.* If you have obtained a title V operating permit for an affected source pursuant to 40 CFR part 70 or 40 CFR part 71, you must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If you submit a compliance report for an affected source along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all the required information concerning deviations from any emission limitation or work practice standard in this subpart, submission of the compliance report satisfies any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report does not otherwise affect any obligation you may have to report deviations from permit requirements to your permitting authority.

(f) *Electronic reporting of compliance reports.* Beginning on July 7, 2026, or once the report template for this subpart has been available on the CEDRI website for one year, whichever date is later, submit all subsequent reports to the EPA via the CEDRI according to § 63.9(k) except that confidential business information (CBI) should be submitted according to paragraph (h) of this section.

(g) *Electronic Reporting of Performance Tests.* Beginning on September 3, 2024, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedure specified in § 63.9(k). CBI should be submitted according to paragraph (h) of this section. Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test must be included as an attachment in the ERT or alternate electronic file. If a performance test consists only of opacity measurements, reporting using the ERT and CEDRI is not required.

(h) *Confidential business information (CBI).* For notifications and reports required to be submitted to CEDRI:

(1) The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information submitted under paragraph (f) or (g) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA.

(2) For performance test reports according to paragraph (g) of this section, the file must be generated using the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website.

(3) Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

(4) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings. For performance test reports, CBI should be flagged to the attention of, the Group Leader, Measurement Policy Group; for all other reports and notifications, the Coke Ovens Sector Lead should be flagged. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(5) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Group Leader, Measurement Policy Group or Coke Oven Sector Lead as indicated in paragraph (4) of this section. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(6) All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(7) You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described in paragraph (f) or (g) of this section.

■ 38. Section 63.7342 is revised to read as follows:

§ 63.7342 What records must I keep?

(a) You must keep the records specified in paragraphs (a)(1) through (5) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any initial notification or notification of compliance status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) Beginning on January 2, 2025, records of the occurrence and duration of each startup, shutdown, or malfunction of process, air pollution control, and monitoring equipment.

(3) Beginning on January 2, 2025, for each failure to meet an applicable standard, a list of the affected sources or equipment, whether the failure occurred during startup, shutdown, or malfunction, and records of the start date, start time, and duration (in hours) of each failure to meet an applicable standard. Include an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(4) Beginning on January 2, 2025, records of the actions taken to minimize emissions in accordance with § 63.7310(a), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(5) Records of performance tests, performance evaluations, and opacity observations as required in § 63.10(b)(2)(viii).

(b) For each COMS or CEMS, you must keep the records specified in paragraphs (b)(1) through (4) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi).

(2) Monitoring data for COMS during a performance evaluation as required in § 63.6(h)(7)(i) and (ii).

(3) You shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, you shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2).

(4) Records of the date and time that each deviation started and stopped, the cause of the deviation, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(c) You must keep the records in § 63.6(h)(6) for visual observations.

(d) You must keep the records required in §§ 63.7333 through 63.7335 to show continuous compliance with each emission limitation, work practice standard, and operation and maintenance requirement that applies to you.

■ 39. Section 63.7351 is amended by:

■ a. Revising paragraph (c)(1); and

■ b. Adding paragraph (c)(7).

The revision and addition read as follows:

§ 63.7351 Who implements and enforces this subpart?

* * * * *

(c) * * *

(1) Approval of alternatives to work practice standards for fugitive pushing emissions in § 63.7291(a) for a by-product coke oven battery with vertical flues, fugitive pushing emissions in § 63.7292(a) for a by-product coke oven battery with horizontal flues, fugitive pushing emissions in § 63.7293 for a nonrecovery coke oven battery, soaking for a by-product coke oven battery in § 63.7294(a), and quenching for a coke oven battery in § 63.7295(b) under § 63.6(g).

* * * * *

(7) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 40. Section 63.7352 is amended by:

■ a. Adding definitions in alphabetical order for "Battery waste heat flues" and "Bypass stack";

■ b. Revising definitions of "Coke oven battery" and "Coke plant";

■ c. Adding definitions in alphabetical order for "Heat and/or nonrecovery coke oven battery", "Heat recovery steam generator", "Heat recovery steam generator bypass/waste heat stack", and "Heat recovery steam generator main stack";

■ d. Revising the definition for "Nonrecovery coke oven battery"; and

■ e. Adding definitions in alphabetical order for "Pushing/charging machine (PCM)", "Total acid gases", "Total polycyclic aromatic hydrocarbons (total PAH)", and "Waste heat stack".

The additions and revisions read as follows:

§ 63.7352 What definitions apply to this subpart?

* * * * *

Battery waste heat flues means the channels outside the coke oven and between the wall separating adjacent ovens as well as each end wall. At any one time, half of the flues in a given wall will be burning gas while the other half will be conveying waste heat from the combustion flues to a brick heat exchanger and then on to the battery combustion stack.

* * * * *

Bypass stack at a heat recovery facility means a stack through which emissions are discharged from a common tunnel that collects gases from a coke oven battery. and where the emissions are not passed through a heat recovery unit. Common tunnels typically are equipped with afterburners to further reduce organic emissions in the coke oven gas.

* * * * *

Coke oven battery means a group of ovens connected by common walls, where coal undergoes destructive distillation to produce coke. A coke oven battery includes by-product and nonrecovery processes.

Coke plant means a facility that produces coke from coal in either a by-product coke oven battery or a nonrecovery coke oven battery.

* * * * *

Heat and/or nonrecovery coke oven battery means a group of ovens, connected by common side walls, in which coal undergoes destructive distillation under negative pressure to produce coke and coke oven gas and from which by-products are not recovered. The common tunnels typically contain afterburners to further reduce organic emissions in the coke oven gas. For nonrecovery plants (*i.e.,* no chemical recovery) with heat recovery, the oven gases are vented through common tunnels to a heat recovery steam generator that produces steam. Heat recovery coke oven batteries may release oven gases through common tunnels and then into the atmosphere through bypass stacks when the heat recovery steam generators are not available due to maintenance or repair. For nonrecovery coke oven batteries (*i.e.,* no chemical recovery) without heat recovery, oven gases are vented through common tunnels and then released to the atmosphere through waste heat stacks.

Heat recovery steam generator is a process unit that recovers heat from coke oven gas in order to produce steam. Units typically are equipped with desulfurization units and baghouses to remove pollutants from the exhaust gases.

Heat recovery steam generator bypass/waste heat stack means a stack that allows coke oven gas to be vented from the coke oven batteries through common tunnels and into the

atmosphere when there are no heat recovery steam generator units available for heat recovery. Common tunnels typically are equipped with afterburners to further reduce organic emissions in the coke oven gas.

Heat recovery steam generator main stack means the stack that is the point of final discharge to the atmosphere of the gases emanating from a heat recovery steam generator and its control devices, which typically are desulfurization units and baghouses.

* * * * *

Nonrecovery coke oven battery means a group of ovens, connected by common walls, where coal undergoes destructive distillation under negative pressure to produce coke and which is designed for the combustion of the coke oven gas from which by-products are not recovered. Also known as a heat and/or nonrecovery battery. Nonrecovery coke oven battery refers to units from which heat is recovered from the coke oven gas exhaust as well as units where heat is not recovered. Both heat and/or nonrecovery batteries are connected by common tunnels that typically include afterburners to further reduce organic emissions in the coke oven gas.

* * * * *

Pushing/charging machine (PCM) means the combined coke oven pushing and charging machine operated on rail tracks to open an oven door, push the finished coke from the open oven, and close the oven door, and to charge the adjacent oven with coal to start the coking cycle. Typically used with horizontal ovens such as those at nonrecovery coke facilities.

* * * * *

Total acid gases means the sum of hydrogen chloride and hydrogen fluoride.

Total polycyclic aromatic hydrocarbons (total PAH) means the sum of acenaphthene, acenaphthylene, anthracene, benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[g,h,i]perylene, benzo[k]fluoranthene, chrysene, dibenz[a,h]anthracene, fluoranthene, fluorene, indeno (1,2,3-cd) pyrene, naphthalene, phenanthrene, perylene, and pyrene.

* * * * *

Waste heat stack at a heat and/or nonrecovery facility means a stack that allows coke oven gas to be vented from the coke oven batteries through common tunnels and into the atmosphere when there are no units available for heat recovery. Common tunnels typically contain afterburners to further reduce organic emissions in coke oven gas.

* * * * *

■ 41. Revise table 1 to subpart CCCCC of part 63 to read as follows:

Table 1 to Subpart CCCCC of Part 63—Applicability of General Provisions to Subpart CCCCC

As required in § 63.7350, you must comply with each applicable requirement of the NESHAP General Provisions (subpart A of this part) as shown in the following table:

Citation	Subject	Applies to subpart CCCCC?	Explanation
§ 63.1	Applicability	Yes.	
§ 63.2	Definitions	Yes.	
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities	Yes.	
§ 63.5	Construction/Reconstruction	Yes.	
§ 63.6(a), (b), (c), (d), (e)(1)(iii), (f)(2)–(3), (g), (h)(2)–(8).	Compliance with Standards and Maintenance Requirements.	Yes.	
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions	No	See § 63.7310(a) for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP	No.	
§ 63.6(e)(3)	SSM Plan Requirements	No.	
§ 63.6(f)(1)	SSM Exemption	No.	
§ 63.6(h)(1)	SSM Exemption	No.	
§ 63.6(h)(9)	Adjustment to an Opacity Emission Standard.	Yes.	
§ 63.7(a)(3), (b)–(d), (e)(2)–(4), (f)–(h).	Performance Testing Requirements	Yes.	
§ 63.7(e)(1)	Performance Testing	No	See §§ 63.7322(a), 63.7324(a), and 63.7325(a).
§ 63.7(a)(1)–(2)	Applicability and Performance Test Dates	No	Subpart CCCCC specifies applicability and dates.
§ 63.8(a)(1)–(3), (b), (c)(1)(ii), (c)(2)–(3), (c)(4)(i)–(ii), (c)(5)–(8), (d)(1)–(2), (e), (f)(1)–(5), (g)(1)–(4).	Monitoring Requirements	Yes	CMS requirements in § 63.8(c)(4) (i)–(ii), (c)(5), and (c)(6) apply only to COMS for battery stacks.
§ 63.8(c)(1)(i)	General Duty to Minimize Emissions and CMS Operation.	No.	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS	No.	
§ 63.8(a)(4)	Additional Monitoring Requirements for Control Devices in § 63.11.	No	Flares are not a control device for subpart CCCCC affected sources.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	No	Subpart CCCCC specifies requirements for operation of CMS.
§ 63.8(d)(3)	Written procedures for CMS	No	See § 63.7342(b)(3).
§ 63.8(e)(4)–(5)	Performance Evaluations	Yes	Except COMS performance evaluation must be conducted before the compliance date.
§ 63.8(f)(6)	RATA Alternative	No	Subpart CCCCC does not require CEMS.
§ 63.8(g)(5)	Data Reduction	No	Subpart CCCCC specifies data that can't be used in computing averages for COMS.
§ 63.9	Notification Requirements	Yes	Additional notifications for CMS in § 63.9(g) apply only to COMS for battery stacks.

Citation	Subject	Applies to subpart CCCCC?	Explanation
§ 63.10(a), (b)(1), (b)(2)(vi)–(x), (b)(2)(xiv), (b)(3), (c)(1)–(6), (c)(9)–(14), (d)(1)–(4), (e)(1)–(2), (e)(4), (f).	Recordkeeping and Reporting Requirements.	Yes	Additional records for CMS in § 63.10(c)(1)–(6), (9)–(14), and reports in § 63.10(d)(1)–(2) apply only to COMS for battery stacks.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	No.	
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	No	See § 63.7342(a)(2)–(4).
§ 63.10(b)(2)(iii)	Maintenance Records	Yes.	
§ 63.10(b)(2)(iv)	Actions Taken to Conform with SSM Plan	No	See § 63.7342(a)(4) for records of actions taken to minimize emissions.
§ 63.10(b)(2)(v)	Actions Taken to Minimize Emissions During SSM.	No	See § 63.7342(a)(4) for records of actions taken to minimize emissions.
§ 63.10(b)(2)(xi)–(xii)	CMS Records for RATA Alternative	No	Subpart CCCCC doesn't require CEMS.
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Subpart CCCCC specifies record requirements.
§ 63.10(c)(15)	Use of SSM Plan	No.	
§ 63.10(d)(5)(i)	Periodic SSM Reports	No	See § 63.7341(c)(4) for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Immediate SSM Reports	No.	
§ 63.10(e)(3)	Excess Emission Reports	No	Subpart CCCCC specifies reporting requirements.
§ 63.11	Control Device Requirements	No	Subpart CCCCC does not require flares.
§ 63.12	State Authority and Delegations	Yes.	
§§ 63.13–63.16	Addresses, Incorporations by Reference, Availability of Information and Confidentiality, Performance Track Provisions.	Yes.	

[FR Doc. 2024–13186 Filed 7–3–24; 8:45 am]

BILLING CODE 6560–50–P

§ 60.17 [Corrected]

■ 1. On page 40027, in the second column, in amendment 2, correct the text of instruction 2.a. to read ''Revising paragraphs (d)(1), (g)(15) and (16), (h)(37), (42), (46), (143), (202), and (208), the introductory text of paragraph (i);''

■ 2. On page 40027, in the third column, in § 60.17(h):

■ a. Correct ''(38)'' to read ''(37)'';

■ b. Correct ''(43)'' to read ''(42)'';

■ c. Correct ''(47)'' to read ''(46)'';

■ d. Correct ''(145)'' to read ''(143)'';

■ e. Correct ''(206)'' to read ''(202)''; and

■ f. Correct ''(212)'' to read ''(208)''.

II. As of July 15, 2024, in FR Doc. 2024–07002 at 89 FR 42932 in the **Federal Register** of Thursday May 16, 2024, make the following corrections:

§ 60.17 [Corrected]

■ 3. On page 43067, in the second column, in amendment 2:

■ a. Correct instruction 2.c. to read ''Revising and republishing paragraph (k).''; and

■ b. Remove instruction 2.d.

■ 4. On page 43068, in the first column, in § 60.17, correct ''(j)'' to read ''(k)''.

Joseph Goffman,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2024–14407 Filed 7–3–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2020–0371; EPA–HQ–OAR–2022–0730; FRL–12066–01–OAR]

RIN 2060–AU97; 2060–AV71

New Source Performance Standards (NSPS) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for the SOCMI and Group I & II Polymers and Resins Industry and NESHAP: Gasoline Distribution Technology Reviews and NSPS Review for Bulk Gasoline Terminals; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting final rules that appeared in the **Federal Register** on May 8, 2024, and May 16, 2024. This action corrects instructions allowing Office of **Federal Register** editors to codify the amendments from the rules. This action also includes express instructions to lift the stay of provisions granted on June 2, 2008 (73 FR 31372). The corrections to instructions in this document do not alter or change the content or text of any regulatory provision.

DATES: The correction to 40 CFR 63.11099, at instruction 6, is effective July 8, 2024. The corrections to 40 CFR 60.481, 60.482–1, 60.481a, 60.482–1a, and 60.482–11a, at instructions 1 through 5, are effective July 15, 2024.

FOR FURTHER INFORMATION CONTACT: For the Gasoline Distribution rules, contact U.S. EPA, Attn: Ms. Jennifer Caparoso, Mail Drop: E143–01, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, NC 27711; telephone number: (919) 541–4063; and email address: *caparoso.jennifer@epa.gov.* For the Synthetic Organic Chemical Manufacturing Industry rules, contact U.S. EPA, Attn: Mr. Andrew Bouchard, Mail Drop: E143–01, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–4036; and email address: *bouchard.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA published two final actions, 89 FR 39304 (May 8, 2024) and 89 FR 42932 (May 16, 2024), that amended 40 CFR part 63, subpart BBBBBB, and 40 CFR part 60, subparts VV and VVa, respectively. The Office of **Federal Register** (OFR) editor is unable to carry out certain instructions of the rules as currently written. This action corrects the instructions allowing OFR editors to codify the amendments from each rule. Additionally, this action includes express instructions in the amendatory text to lift the stay of the definition of ''Process unit'' and the method of allocating shared storage vessels in 40 CFR part 60, subpart VV, as well as the stay of the definitions of ''Process unit'' and ''Capital expenditure'' and the method of allocating shared storage vessels in 40 CFR part 60, subpart VVa.

Corrections

In FR Doc. 2024–07002, appearing in page 42932 in the **Federal Register** of Thursday, May 16, 2024, the following corrections are made:

§ 60.481 [Corrected]

■ 1. Effective July 15, 2024, on page 43068, in the second column, in part 60, amendatory instruction 4 is corrected to read as follows:

''■ 4. Amend § 60.481 by lifting the stay on the definition of ''Process unit'' and revising the definition of ''Process unit''.

The revision reads as follows:''

§ 60.482–1 [Corrected]

■ 2. Effective July 15, 2024, on page 43068, in the second column, in part 60, amendatory instruction 5 is corrected to read as follows:

''■ 5. Amend § 60.482–1 by lifting the stay on paragraph (g) and removing paragraph (g).''

§ 60.481a [Corrected]

■ 3. Effective July 15, 2024, on page 43070, in the second column, in part 60, amendatory instruction 11 is corrected to read as follows:

''■ 11. Amend § 60.481a by lifting the stay on the definitions of ''Capital expenditure'' and ''Process unit'' and revising the definitions to read as follows:''

§ 60.482–1a [Corrected]

■ 4. Effective July 15, 2024, on page 43070, in the first column, in part 60, amendatory instruction 12 is corrected to read as follows:

''■ 12. Amend § 60.482–1a by:

■ a. Revising paragraph (e); and

■ b. Lifting the stay on paragraph (g) and removing paragraph (g).

The revisions read as follows:''

§ 60.482–11a [Corrected]

■ 5. Effective July 15, 2024, on page 43070, in the second column, in part 60, amendatory instruction 13 is corrected to read as follows:

''■ 13. Amend § 60.482–11a by lifting the stay and removing the section.''

In FR Doc. 2024–04629, appearing on page 39304 in the **Federal Register** on Wednesday, May 8, 2024, the following correction is made:

§ 63.11099 [Corrected]

■ 6. Effective July 8, 2024, on page 39383, in the third column, in part 63, amendatory instruction 29 is corrected to read as follows:

''■ 29. Section 63.11099 is amended by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:''

Joseph Goffman,

Assistant Administrator.

[FR Doc. 2024–14678 Filed 7–3–24; 8:45 am]

BILLING CODE 6560–50–P

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 201 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Amend § 201.11 by revising paragraphs (f)(1) and (h)(3)(iv) to read as follows:

§ 201.11 Satellite carrier statements of account covering statutory licenses for secondary transmissions.

* * * * *

(f) * * *

(1) All royalty fees shall be paid by electronic funds transfer using *Pay.gov,* and payment must be received in the designated bank by the filing deadline for the relevant accounting period. Satellite carriers must provide specific information as part of the EFT and as part of the remittance advice, as listed in the instructions for *Pay.gov,* the Statement of Account form, and the Office's website.

* * * * *

(h) * * *

(3) * * *

(iv)(A) All requests filed under this paragraph (h) must be accompanied by a filing fee in the amount prescribed in § 201.3(e) for each Statement of Account involved. Payment of this fee must be by EFT using *Pay.gov.* No request will be processed until the appropriate filing fees are received.

(B) All requests that a supplemental royalty fee payment be received for deposit under this paragraph (h) must be accompanied by a remittance in the full amount of such fee. Payment of the supplemental royalty fee must be by EFT using *Pay.gov.* No such request will be processed until an acceptable remittance in the full amount of the supplemental royalty fee has been received.

* * * * *

■ 3. Amend § 201.17 by revising paragraphs (k)(1) and (l)(4)(iv) to read as follows:

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

* * * * *

(k) * * *

(1) All royalty fees must be paid by electronic funds transfer (EFT) using *Pay.gov,* and must be received in the designated bank by the filing deadline for the relevant accounting period. Cable systems must provide specific information as part of the EFT and as part of the remittance advice, as listed in the instructions for *Pay.gov,* the Statement of Account form and on the Office's website.

* * * * *

(l) * * *

(4) * * *

(iv)(A) All requests filed under this paragraph (l) must be accompanied by a filing fee in the amount prescribed in § 201.3(e) for each Statement of Account involved. Payment of this fee must be made by an electronic payment using *Pay.gov.* No request will be processed until the appropriate filing fees are received; and

(B) All requests that a supplemental royalty fee payment be received for deposit under this paragraph (l) must be accompanied by a remittance in the full amount of such fee. Payment of the supplemental royalty fee must be by an electronic payment using *Pay.gov.* No such request will be processed until an acceptable remittance in the full amount of the supplemental royalty fee has been received.

* * * * *

■ 4. Amend § 201.28 by revising paragraphs (h)(1) and (j)(3)(v) to read as follows:

§ 201.28 Statements of Account for digital audio recording devices or media.

* * * * *

(h) * * *

(1) All royalty fees must be paid by electronic funds transfer (EFT) using *Pay.gov,* and must be received in the designated bank by the filing deadline for the relevant accounting period. Remitters must provide specific information as part of the EFT and as part of the remittance advice, as listed in the instructions for *Pay.gov,* the Statement of Account form, and the Office's website.

* * * * *

(j)) * * *

(3) * * *

(v)(A) The request must be accompanied by a filing fee in the amount prescribed in § 201.3(e) for each Statement of Account involved. Payment of this fee must be by EFT using *Pay.gov.* No request will be processed until the appropriate filing fees are received.

(B) Requests that a supplemental royalty fee payment be deposited must be accompanied by a remittance in the full amount of such fee. Payment of the supplemental royalty fee must be by electronic payment using *Pay.gov.* No such request will be processed until an acceptable remittance in the full amount of the supplemental royalty fee has been received.

* * * * *

Shira Perlmutter,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2025–05444 Filed 3–28–25; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0083; FRL–5919.3–02–OAR]

RIN 2060–AW52

Partial Administrative Stay of National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; partial stay.

SUMMARY: By a letter dated August 14, 2024, and supplemented by a letter dated March 5, 2025, the EPA's Office of Air and Radiation announced the convening of a proceeding for reconsideration of certain requirements in the final rule, ''National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review,'' published on April 3, 2024. In this action, the EPA is staying provisions establishing compliance deadlines in 2025 for requirements that were added or revised by the April 3, 2024, final rule for 90 days pending reconsideration.

DATES: Effective March 31, 2025.

ADDRESSES: Electronic copies of this document are available on the EPA's website at *https://www.epa.gov/stationary-sources-air-pollution/integrated-iron-and-steel-manufacturing-national-emission.* Copies of this document are also available at *https://www.regulations.gov,* at Docket ID No. EPA–HQ–OAR–2002–0083.

FOR FURTHER INFORMATION CONTACT: For questions about this action, contact U.S. EPA, Attn: Katie Boaggio, Mail Drop: D243–02, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, NC 27711; telephone number: (919) 541–2223; and email address: *boaggio.katie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 3, 2024, the EPA completed a technology review under Clean Air Act (CAA) section 112(d)(6) of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Integrated Iron and Steel Manufacturing Facilities that revised standards that were issued in 2003 and reviewed in 2020. Additionally, EPA set standards under CAA sections 112(d)(2) and 112(d)(3) for previously unregulated hazardous air pollutant emissions. The NESHAP amendments are codified at 40 CFR part 63, subpart FFFFF. For further information on the 2024 rule, see 89 FR 23294 (April 3, 2024).

On June 3 and 4, 2024, several interested parties submitted administrative petitions to the EPA seeking reconsideration of various aspects of the 2024 rule pursuant to section 307(d)(7)(B) of the CAA (42 U.S.C. 7607(d)(7)(B)). Copies of these petitions are included in the docket, Docket ID No. EPA–HQ–OAR–2002–0083.

On August 14, 2024, the EPA issued a letter stating our intention to exercise our discretion to reconsider three issues raised in the petitions, address some items of correction, and continue reviewing the petitions for reconsideration. Later, on March 5, 2025, the EPA issued a second letter modifying the scope of the already convened discretionary reconsideration proceeding by identifying some items from the petitions for reconsideration as appropriate for mandatory reconsideration based on the criteria in CAA section 307(d)(7)(B). Copies of both EPA response letters are included in the docket, Docket ID No. EPA–HQ–OAR–2002–0083. Under CAA section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), the Administrator shall convene a proceeding for reconsideration of a rule when the person raising an objection to a rule can demonstrate: (1) that it was either impractical to raise the objection during the period for public comment or that the grounds for the objection arose after the period for public comment; and (2) that the objection is of central relevance to the outcome of the rule.

The March 5, 2025 letter announced that, in addition to the discretionary reconsideration issues identified in the August 14, 2024 letter, the following topics from two petitions will be reconsidered pursuant to CAA section 307(d)(7)(B): (1) work practice standards for unmeasured fugitive and intermittent particulate from unplanned bleeder valve openings; (2) the opacity limit for planned bleeder valve openings; (3) work practice standards for bell leaks; and (4) the opacity limit for slag processing and handling.

In particular, the petitioners identified two errors in the final rule regulatory text related to the work practice standards for unplanned bleeder valve openings (issue 1) and identified ambiguity in the regulatory text for the work practice standards for bell leaks (issue 3). In the August 14, 2024 letter, the EPA initially identified these as items that could be corrected in a short-term corrections document; however, after further evaluation of the issues, the EPA concluded that making the changes necessary to address these items would require public notice and comment because the regulatory text containing the errors and ambiguity was introduced between the proposed rule and final rule and thus was not subject to public notice and comment as required by the CAA. Accordingly, in the March 5, 2025 letter, we found that the petitioners had demonstrated that it was impractical to raise their objections to these provisions during the period for public comment.

We also found that their objections to the errors and ambiguity in the regulatory text for work practice standards for unplanned bleeder valve openings and bell leaks are of central relevance to the outcome of the rule. For bell leaks, we finalized language that was not proposed and directly impacts the ability for industry to comply with the standard. For unplanned bleeder valve openings, we inadvertently defined bleeder valve openings incorrectly that also directly impacts the ability for industry to comply with the standard as written.

Additionally, industry petitioners provided new monitoring data to the EPA in their petitions for reconsideration. This monitoring, which was performed after the close of the comment period, demonstrates that it may be infeasible for some sources to comply with the final rule's opacity limits for planned bleeder valve openings (issue 2) and slag processing and handling (issue 4). This monitoring was performed to substantiate comments about operational variabilities industry had submitted during the public comment period that EPA did not have time to fully evaluate before promulgating the final rule. For this reason, industry was not aware of the need for these data until after the rule was published. Therefore, in support of their petitions for reconsideration, industry provided a more robust dataset than the information submitted pursuant to EPA's 2022 CAA section 114 information collection request during the development of the proposed rule; the new data were not collected as part of the CAA section 114 request and were not available to the EPA until after the rule was finalized. While the EPA concluded there are work practices available to minimize opacity, these new data provide evidence that there is more variability in each source's operations and opacity than we initially accounted for.

Accordingly, in the March 5, 2025 letter, we found that the petitioners had demonstrated that it was impractical to raise these challenges to the feasibility of the proposed opacity standards during the public comment period. If we had received the additional data provided in the petitions during the public comment period, we may have structured the opacity limits in such a way as to account for additional variability. Based on this additional information provided by the petitioners after promulgation of the final rule and after further discussions and analyses, the EPA now understands that, in some cases, the equipment and work practices required by the final rule will not be sufficient or, in some cases, feasible to meet the standards as currently written, making petitioners' objections of central relevance to the outcome of the final rule.

As part of the reconsideration proceeding looking at the issues identified in both the August 2024 and March 2025 EPA response letters, the EPA will prepare a notice of proposed rulemaking that will provide petitioners and the public an opportunity to comment on the issues identified for both discretionary and mandatory reconsideration.

II. Stay of Certain Provisions

By this action, the EPA is staying the effectiveness of certain aspects of the subpart revised by the final rule entitled, "National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review," 89 FR 23294, for 90 days pursuant to its authority under section 307(d)(7)(B) of the CAA. Specifically, the EPA is staying the effectiveness of all provisions with April 3, 2025 compliance dates while the EPA addresses the reconsideration issues in a separate action. Therefore, pursuant to section 307(d)(7)(B) of the CAA, the EPA is staying the effectiveness of these compliance requirements for 90 days. This stay will remain in place until July 1, 2025, at which time those provisions will become effective.

List of Subjects in 40 CFR Part 63

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

Lee Zeldin,

Administrator.

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

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

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

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

Subpart FFFFF—National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

■ 2. Amend § 63.7790 by revising paragraph (a) to read as follows:

§ 63.7790 What emission limitations must I meet?

(a) You must meet each emission limit and opacity limit in table 1 to this subpart that applies to you except that the requirements in table 1 to this subpart for planned bleeder valve openings at new and existing blast furnaces are stayed from April 2, 2025, to July 1, 2025.

* * * * *

§ 63.7793 [Amended]

■ 3. Amend § 63.7793 by staying paragraphs (c), (d), and (f) from April 2, 2025, to July 1, 2025.

§ 63.7800 [Amended]

■ 4. Amend § 63.7800 by staying paragraphs (b)(8) and (9) from April 2, 2025, to July 1, 2025.

§ 63.7821 [Amended]

■ 5. Amend § 63.7821 by staying paragraphs (i), (k), and (l) from April 2, 2025, to July 1, 2025.

§ 63.7823 [Amended]

■ 6. Amend § 63.7823 by staying paragraphs (c)(3), (d)(6), (f), and (h) from April 2, 2025, to July 1, 2025.

§ 63.7833 [Amended]

■ 7. Amend § 63.7833 by staying paragraph (j) from April 2, 2025, to July 1, 2025.

■ 8. Amend § 63.7842 by revising paragraph (d) to read as follows:

§ 63.7842 What records must I keep?

* * * * *

(d) You must keep the records required in §§ 63.7823, 63.7833, and 63.7834 to show continuous compliance with each emission limitation and operation and maintenance requirement that applies to you. This includes a record of each large and small bell repair and replacement, a record of the date on which the large bell opacity has exceeded 20 percent, and the most current time period or throughput over which no opacity was observed from the small bell. The requirements of this paragraph for records for large and small bells are stayed from April 2, 2025 to July 1, 2025.

* * * * *

Table 1 to Subpart FFFFF of Part 63 [Amended]

■ 9. Amend table 1 to subpart FFFFF of part 63 by staying item 16 from April 2, 2025, to July 1, 2025.

Table 2 to Subpart FFFFF of Part 63 [Amended]

■ 10. Amend table 2 to subpart FFFFF of part 63 by staying item 16 from April 2, 2025, to July 1, 2025.

Table 3 to Subpart FFFFF of Part 63 [Amended]

■ 11. Amend table 3 to subpart FFFFF of part 63 by staying item 16 from April 2, 2025, to July 1, 2025.

[FR Doc. 2025–05339 Filed 3–28–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 231101–0256; RTID 0648–XE647 and Docket No. 230914–0219; RTID 0648–XE741]

2025 Recreational Season Announcement and Closure for Golden Tilefish in the South Atlantic; 2025 Recreational Accountability Measure and Closure for Gag in the South Atlantic; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; correction.

SUMMARY: This document contains corrections to two temporary rules published in the **Federal Register** on March 20, 2025, with an effective date span of March 21 through December 31, 2025, and March 24, 2025, with an effective date span of June 26 through December 31, 2025. Both of these temporary rules announced the season closure dates for the recreational harvest of golden tilefish and gag, respectively, in the U.S. exclusive economic zone (EEZ) of the South Atlantic. This document corrects the subject headings of those temporary rules.

DATES: This correction is effective on March 31, 2025.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS is correcting the subject headings of the temporary rules that published in the **Federal Register** on March 20, 2025 (90 FR 13099), and March 24, 2025 (90 FR 13425).

Corrections

In **Federal Register** documents 2025–04788, that published on March 20, 2025, at 90 FR 13099, and 2025–04903, that published March 24, 2025, at 90 FR 13425, the following corrections are made:

1. In the **Federal Register** issue of March 20, 2025, on page 13099, at the top of the second column, correct the subject heading of the temporary final rule to read as: ''2025 Recreational Season Announcement and Closure for Golden Tilefish in the South Atlantic''.

2. In the **Federal Register** issue of March 24, 2025, on page 13425, in the middle of the second column, correct the subject heading of the temporary final rule to read as: ''2025 Recreational Accountability Measure and Closure for Gag in the South Atlantic''.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 26, 2025.

Karen H. Abrams,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2025–05501 Filed 3–27–25; 4:15 pm]

BILLING CODE 3510–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2017–0015; FRL–5948.1–03–OAR]

RIN 2060–AV59

National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes our amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants (Lime Manufacturing NESHAP). Specifically, we are finalizing maximum achievable control technology (MACT) standards for hydrogen chloride (HCl), mercury, organic HAP, and dioxin/furans (D/F).

DATES: This final rule is effective on September 16, 2024. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of September 16, 2024.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2017–0015. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact U.S. EPA, Attn: Mr. Brian Storey, Mail Drop: D243–04, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–1103; and email address: *storey.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CFR Code of Federal Regulations
DB dead burned dolomitic lime
D/F dioxin/furans
DL dolomitic lime
DSI dry sorbent injection
EJ environmental justice
EPA Environmental Protection Agency
ESP electrostatic precipitator
FF fabric filter
FR Federal Register
g/dscm grams of pollutant per dry standard cubic meter of air
HAP hazardous air pollutant(s)
HBEL health-based emission limit
HCl hydrogen chloride
IQV intra-quarry variability
lb/MMton pounds of pollutant per million tons of lime produced at the kiln
lb/tsf pounds of pollutant per ton of stone feed
MACT maximum achievable control technology
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PM particulate matter
ppmvd parts per million by volume, dry
PR preheater rotary kiln
PRA Paperwork Reduction Act
PSH process stone handling
QL quick lime
RDL representative detection level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SR straight rotary kiln
SSM startup, shutdown, and malfunction
TEF toxicity equivalence factors
THC total hydrocarbons
tpy tons of pollutant per year
UMRA Unfunded Mandates Reform Act
UPL upper predictive limit
VK vertical kiln
VCS voluntary consensus standards

Background information. On January 5, 2023 (88 FR 805), the EPA proposed revisions to the Lime Manufacturing NESHAP to complete the technology review, originally promulgated on July 24, 2020 (85 FR 44960), by finalizing emission standards for 4 unregulated HAP. Based on the information available to EPA in 2023 at the time of the proposal, the EPA certified the rule as not having a significant economic impact on a substantial number of small entities (No SISNOSE). Following the publication of the NPRM, EPA received additional data and feedback via public comments regarding the Agency's economic analysis, including information on the impacts to businesses that would be affected by the proposed rule. Our initial review of this updated information indicated that estimates of the control costs developed to support the proposal may have been understated and that there could accordingly be significant economic impacts to small businesses. On February 9, 2024 (89 FR 9088), the EPA published a supplemental proposal to address information received from public commenters and other sources of information, including the small business review panel. The supplemental proposal addressed regulatory flexibilities raised during outreach to the small businesses impacted by proposed revisions to the Lime Manufacturing NESHAP. In this action, we are finalizing decisions and revisions to the rule based on the public comments received regarding both the January 5, 2023, proposed rule and the February 9, 2024, supplemental proposal. We summarize some of the more significant comments we received regarding the proposed and supplemental rule amendments and provide our responses in this preamble. A summary of all other public comments and the EPA's responses to those comments is available in the document titled ''Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Amendments'', included in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0015).

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

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the lime manufacturing source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the lime manufacturing source category in our January 5, 2023, and February 9, 2024, proposals?
D. What outreach did we conduct following the January 5, 2023, proposal?

III. What is the rationale for our final decisions and amendments for the Lime Manufacturing source category?
A. Hydrogen Chloride Emission Standards
B. Mercury Emission Standards
C. Organic HAP Emission Standards
D. Dioxin/Furan Emission Standards
E. What other changes have been made to the NESHAP?
F. Severability of Standards
G. What are the effective and compliance dates of the standards?
IV. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
V. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

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

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

Source category and NESHAP	NAICS code [1]
Lime Manufacturing	32741, 33111, 3314, 327125

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

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

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

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

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 16, 2024. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

II. Background

A. What is the statutory authority for this action?

For major sources, the Clean Air Act (CAA) section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable after considering cost, energy requirements, and non-air quality health and environmental impacts. These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor.'' The EPA must also consider control options that are more stringent than the floor, commonly referred to as ''beyond-the-floor'' (BTF) standards. Costs may not be considered when setting the MACT floor and may only be considered when determining whether BTF standards are appropriate. The EPA considered BTF standards but did not elect to set BTF standards in this rulemaking.

On January 5, 2023, the EPA proposed amendments to the Lime Manufacturing NESHAP to address unregulated emissions of HAP from the Lime Manufacturing source category. On February 9, 2024, the EPA supplemented its proposed amendments based on information received from commenters and other sources of information, including the small business review panel. In this document, the EPA proposed revisions to the proposed MACT standards for HCl, mercury, organic HAP, and D/F for the Lime Manufacturing source category pursuant to the Clean Air Act (CAA) sections 112(d)(2) and (3). The EPA is finalizing these amendments to the NESHAP to ensure that all emissions of

HAP from sources in the source category are regulated.

In setting standards for major source categories under CAA section 112(d), the EPA has the obligation to address all HAP listed under CAA section 112(b).[1] In the *Louisiana Environmental Action Network* v. *EPA* decision issued on April 21, 2020, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) held that the EPA has an obligation to address unregulated emissions from a major source category when the Agency conducts the 8-year technology review required by CAA section 112(d)(6).[2] These amendments address currently unregulated emissions of HAP from the lime manufacturing source category.

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

The EPA promulgated the Lime Manufacturing NESHAP on January 5, 2004 (69 FR 394). The standards are codified at 40 CFR part 63, subpart AAAAA. The lime manufacturing industry consists of facilities that use a lime kiln to produce lime product from limestone by calcination. The source category covered by this MACT standard currently includes 34 facilities.

As promulgated in 2004, the current Lime Manufacturing NESHAP regulates HAP emissions from all new and existing lime manufacturing plants that are major sources, co-located with major sources, or are part of major sources. A lime manufacturing plant is defined as any plant which uses a lime kiln to produce lime product from limestone or other calcareous material by calcination. The NESHAP specifically excludes lime kilns that use only calcium carbonate waste sludge from water softening processes as the feedstock. In addition, lime manufacturing plants located at pulp and paper mills or at beet sugar factories are not subject to the NESHAP. Lime manufacturing operations at pulp and paper mills are subject to the NESHAP for combustion sources at kraft, soda, and sulfite pulp and paper mills.[3] Lime manufacturing operations at beet sugar processing plants are not subject to the Lime Manufacturing NESHAP because beet sugar lime kiln exhaust is typically routed through a series of gas washers to clean the exhaust gas prior to process use. Other lime manufacturing plants that are part of multiple operations, such as (but not limited to) those at steel mills and magnesia production facilities, are subject to the Lime Manufacturing NESHAP.

The current Lime Manufacturing NESHAP defines the affected source as each lime kiln and its associated cooler and each individual processed stone handling (PSH) operations system. The PSH operations system includes all equipment associated with PSH operations beginning at the process stone storage bin(s) or open storage pile(s) and ending where the process stone is fed into the kiln. It includes man-made process stone storage bins (but not open process stone storage piles), conveying system transfer points, bulk loading or unloading systems, screening operations, surge bins, bucket elevators, and belt conveyors.

The current Lime Manufacturing NESHAP established particulate matter (PM) emission limits for lime kilns, coolers, and PSH operations with stacks. The NESHAP also established opacity limits for kilns equipped with electrostatic precipitators (ESP) and fabric filters (FF) and scrubber liquid flow limits for kilns equipped with wet scrubbers. Particulate matter serves as a surrogate for the non-mercury metal HAP. The NESHAP also regulates opacity or visible emissions from most of the PSH operations, with opacity also serving as a surrogate for HAP metals.

The PM emission limit for existing kilns and coolers is 0.12 pounds PM per ton of stone feed (lb/tsf) for kilns using dry air pollution control systems (*e.g.,* dry scrubbers, fabric filters, baghouses) prior to January 5, 2004. Existing kilns that have installed and are operating wet scrubbers prior to January 5, 2004, must meet an emission limit of 0.60 lb/tsf. Kilns which meet the criteria for the 0.60 lb/tsf emission limit must continue to use a wet scrubber for PM emission control in order to be eligible to meet the 0.60 lb/tsf limit. If at any time such a kiln switches to a dry control, it would become subject to the 0.12 lb/tsf emission limit, regardless of the type of control device used in the future. The PM emission limit for all new kilns and lime coolers is 0.10 lb/tsf. As a compliance option, these emission limits (except for the 0.60 lb/tsf limit) may be averaged across kilns and coolers at the lime manufacturing plant. If the lime manufacturing plant has both new and existing kilns and coolers, then the emission limit would be an average of the existing and new kiln PM emissions limits, weighted by the annual actual production rates of the individual kilns, except that no new kiln may exceed the PM emission level of 0.10 lb/tsf. Existing kilns that have installed and are operating wet scrubbers prior to January 5, 2004, and that are required to meet a 0.60 lb/tsf emission limit must meet that limit individually, and they may not be included in any averaging calculations.

Emissions from PSH operations that are vented through a stack are subject to a limit of 0.05 grams PM per dry standard cubic meter (g/dscm) and 7 percent opacity. Stack emissions from PSH operations that are controlled by wet scrubbers are subject to the 0.05 g PM/dscm limit but are not subject to the opacity limit. Fugitive emissions from PSH operations are subject to a 10 percent opacity limit.

For each building enclosing any PSH operation, each of the affected PSH operations in the building must comply individually with the applicable PM and opacity emission limitations. Otherwise, there must be no visible emissions from the building, except from a vent, and the building's vent emissions must not exceed 0.05 g/dscm and 7 percent opacity. For each fabric filter that controls emissions from only an individual, enclosed processed stone storage bin, the opacity must not exceed 7 percent. For each set of multiple processed stone storage bins with combined stack emissions, emissions must not exceed 0.05 g/dscm and 7 percent opacity. The current Lime Manufacturing NESHAP does not allow averaging of PSH operations.

The 2020 amendments finalized the residual risk and technology review (RTR) conducted for the Lime Manufacturing NESHAP. The July 24, 2020, RTR (85 FR 44960) found that the Lime Manufacturing NESHAP provided an ample margin of safety to protect public health, that more stringent standards were not necessary to prevent an adverse environmental effect, and that there were no developments in practices, processes, or control technologies that would warrant revisions to the standards. In addition, the 2020 RTR addressed periods of startup, shutdown, and malfunction (SSM) by removing any exemptions during SSM operations. Lastly, the 2020 amendments included provisions requiring electronic reporting.

C. What changes did we propose for the lime manufacturing source category in our February 9, 2024, proposal?

On February 9, 2024, the EPA published a supplemental proposal in the **Federal Register** for the Lime

[1] *Desert Citizens against Pollution* v. *EPA,* 699 F3d 524, 527 (D.C. Cir. 2012) (''[W]e have read subparagraphs (1) and (3) of 40 CFR 112(d) to require the regulation of all HAPs listed in 40 CFR 112(b)(1)''), citing *Nat'l Lime Ass'n* v. *EPA,* 233 F.3d 625, 633–34 (D.C. Cir. 2000) and *Sierra Club* v. *EPA,* 479 F.3d 875, 883 (D.C. Cir. 2007).

[2] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

[3] 66 FR 3180, January 12, 2001.

Manufacturing NESHAP, 40 CFR part 63, subpart AAAAA, in which the EPA proposed setting MACT standards for HCl, mercury, organic HAP, and D/F. Table 2 includes a summary of the MACT standards in the February 9, 2024, supplemental proposal.

TABLE 2—SUMMARY OF NEW AND EXISTING SOURCE LIMITS FOR THE LIME MANUFACTURING NESHAP INCLUDED IN THE FEBRUARY 9, 2024, SUPPLEMENTAL PROPOSAL

Pollutant	Kiln type [1]	Lime produced [2]	New source limit	Existing source limit	Unit of measure
Hydrogen Chloride	SR	QL	0.015	0.52	lb/ton lime produced.
	SR	DL, DB	1.7	2.3	lb/ton lime produced.
	PR	QL	0.096	0.096	lb/ton lime produced.
	PR	DL, DB	0.39	0.39	lb/ton lime produced.
	VK	QL	0.021	0.021	lb/ton lime produced.
	VK	DL, DB	0.39	0.39	lb/ton lime produced.
Mercury	All	All	27	34	lb/MMton lime produced.
Organic HAP [3]	All	All	1.7	1.7	ppmvd at 7 percent O_2.
Dioxin/Furan	All	All	0.037	0.037	ng/dscm (TEQ) at 7 percent O_2.

[1] Straight rotary kiln (SR), preheater rotary kiln (PR), vertical kiln (VK).
[2] Dolomitic lime (DL), quick lime (QL), dead burned dolomitic lime (DB).
[3] Organic HAP include formaldehyde, acetaldehyde, toluene, benzene, xylenes (a mixture of o, m, and p isomers), styrene, ethyl benzene, and naphthalene.

D. What outreach did we conduct following the January 5, 2023, proposal?

The EPA convened a Small Business Advocacy Review (SBAR) Panel to obtain advice and recommendations from small entity representatives (SERs) that could be subject to the Lime Manufacturing NESHAP requirements. On August 3, 2023, the EPA's Small Business Advocacy Chairperson convened the Panel, which consisted of the Chairperson, the Director of the Sector Policies and Programs Division within the EPA's Office of Air Quality Planning and Standards, the Administrator of the Office of Information and Regulatory Affairs within OMB, and the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Prior to convening the Panel, the EPA conducted outreach and solicited comments from the SERs. After the Panel was convened, the Panel provided additional information to the SERs and requested their input. The Panel's review identified several significant alternatives for consideration by the Administrator of the EPA which would accomplish the stated objectives of the CAA and would minimize economic impacts of the proposed rule on small entities.

The SBAR Panel recommended several flexibilities including the consideration of health-based standards for HCl, an intra-quarry variability (IQV) for mercury, an aggregated organic HAP emission standard, retaining subcategorization for HCl numeric emissions limits, and work practice standards for D/F in place of a numeric limit. The EPA is including some of these flexibilities as a part of this final rule, including subcategorization of HCl emission limits, an IQV factor for mercury, and an aggregated organic HAP emission limit. A copy of the full SBAR Panel Report is available in the docket of this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0015).

III. What is the rationale for our final decisions and amendments for the Lime Manufacturing source category?

The EPA is finalizing MACT standards for HCl, mercury, organic HAP, and D/F within the Lime Manufacturing source category pursuant to the Clean Air Act (CAA) sections 112(d)(2) and (3). Additionally, we are finalizing an emissions averaging compliance alternative that allows lime manufacturing facilities to demonstrate compliance with the HCl and mercury standards by averaging emissions of each pollutant across existing kilns located at the same facility. This section provides a description of what we proposed and what we are finalizing, a summary of key comments and responses, and the EPA's rationale for the final decisions and amendments. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing,* which is available in the docket for this action.

A. Hydrogen Chloride Emission Standards

1. What comments did we receive on the hydrogen chloride emission standards, and what are our responses?

The following key comments were received regarding the HCl emission standards as proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal. The EPA responses to each comment are included. All comments regarding HCl not discussed in this section, and the EPA's responses can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing,* which is available in the docket for this action.

Comment: While the EPA received comments in support of the subcategorization of HCl emission standards by kiln type and lime produced, the EPA also received opposing comments which state that the proposed subcategories by lime produced for HCl are unlawful because they are not based on differences in the class, type, or size of lime kilns. Commenter stated that the CAA section 112(d)(1) allows the EPA only to distinguish between ''classes, types, and sizes'' of sources in setting emission standards for a category.

Response: The EPA disagrees with the commenter. The EPA determined that subcategorization by lime produced was warranted because the characteristics of DL and QL are different, where DL is made from naturally occurring limestone with a higher percentage of magnesium chloride, and QL has a lower chloride content. Given that HCl emissions from a lime manufacturing process are primarily driven by the heating of raw materials being processed in the lime kiln, the EPA finds that these differences in chloride content of the limestone being fed to a kiln as raw material warrant subcategorization. For these reasons the EPA has decided it is warranted to set subcategorizations by the type of lime produced (*e.g.,* DL, QL).

Comment: In the February 9, 2024, supplemental proposal, the EPA asked for public comment on the use of a health-based emission limit (HBEL), under CAA section 112(d)(4), when

determining the appropriate emission standards for HCl. The EPA received comments on the supplemental proposal both supporting setting an HBEL and against setting an HBEL for HCl. Commenters supporting an HBEL for HCl agreed with the EPA's assertion that HCl is a "threshold pollutant" and stated that current levels of HCl emissions from lime kilns are well below the threshold levels of concern for human receptors. In support, commenters supporting the use of an HBEL cited the 2020 RTR, where the EPA found that the risks of lime manufacturing under the current MACT standards were acceptable and that the current NESHAP provides an ample margin of safety to protect public health. Commenters opposed to the use of an HBEL for HCl stated that the EPA had not provided substantial evidence that HCl is not carcinogenic. Therefore, they stated, HCl cannot be a threshold pollutant, and the EPA cannot establish an HBEL for HCl.

Response: The EPA acknowledges comments received on whether it is appropriate to consider HCl a threshold pollutant as defined under the CAA section 112(d)(4). The EPA is mindful that, in *Sierra Club* v. *Environmental Protection Agency,* 895 F.3d 1 (D.C. Cir. 2018), the court determined that the rulemaking record did not show that HCl is not a carcinogen. 895 F.3d at 11. Based on the science and methods developed over the last 33 years, we believe the issue in setting a standard under CAA section 112(d)(4) is not necessarily whether HCl is a carcinogen but rather whether HCl has a threshold with an ample margin of safety. Thus, in the supplemental proposal, we stated that a chemical's mechanism of action (*e.g.,* mutagenic, or non-mutagenic) is an important consideration when determining if a pollutant has a threshold.

The EPA agrees with commenters' assertions[4] that we cannot claim that mutagenicity is the sole test to determine whether a pollutant has a threshold, for cancer or other adverse health effects.

We acknowledge industry comments in support of an HBEL and that current HCl emissions based upon the 2020 RTR are at levels that were acceptable with an ample margin of safety. However, considering the other comments received, we have decided not to promulgate an HBEL for HCl.

2. What did we propose and what are the final hydrogen chloride emission standards in this final rule?

Emissions data collected in support of the 2020 RTR indicated the presence of HCl, using EPA Methods 320 and 321. Additionally, the EPA evaluated the types of kilns and lime produced for which data was available. From our discussions with industry representatives, and our review of the HCl emissions data, we found that the configuration of the different types of kilns warranted subcategorization by kiln configuration. In the final rule amendments, we have subcategorized the HCl MACT standards by the following kiln types: straight rotary kiln (SR), preheater rotary kiln (PR), and vertical kiln (VK). In addition, due to the different residence times of the raw materials within the heating zone of the kiln during the production of lime, the 3 types of lime produced also warranted subcategorization by lime type. We have also subcategorized the HCl MACT standards by the following types of lime produced: dolomitic lime (DL), quick lime (QL), and dead burned dolomitic lime (DB).

To account for variability in the lime manufacturing operations and resulting emissions, the stack test data were used to calculate the HCl MACT floor limits based on the 99 percent upper predictive limit (UPL). In some instances, subcategorization resulted in limited datasets, and a single dataset was used to calculate both existing and new source HCl MACT floor limits. In these instances, the existing source HCl MACT floor limit is the same as the new source HCl MACT floor limit. The HCl MACT floor limits were calculated based on units of pounds of pollutant per ton of lime produced (lb/ton lime produced). Table 3 summarizes the new and existing source emission limits for HCl in the final amendments to the Lime Manufacturing NESHAP.

TABLE 3—SUMMARY OF FINAL NEW AND EXISTING SOURCE LIMITS FOR HYDROGEN CHLORIDE

Kiln type[1]	Lime produced[2]	New source limit (lb/ton lime produced)	Existing source limit (lb/ton lime produced)
SR	QL	0.015	0.52
SR	DL, DB	1.7	2.3
PR	QL	0.096	0.096
PR	DL, DB	0.39	0.39
VK	QL	0.021	0.021
VK	DL, DB	0.39	0.39

[1] Straight rotary kiln (SR), preheater rotary kiln (PR), vertical kiln (VK).
[2] Dolomitic lime (DL), quick lime (QL), dead burned dolomitic lime (DB).

B. Mercury Emission Standards

1. What comments did we receive on the mercury emission standards, and what are our responses?

The following key comments were received regarding the mercury emission standards as proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal. The EPA responses to each comment are included. For all comments regarding mercury not discussed in this section, and the EPA's responses can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing,* which is available in the docket for this action.

Comment: Commenters supported the use of an intra-quarry variability factor (IQV) for mercury but commented that the February 9, 2024, supplemental proposal should be adjusted to allow sources more flexibility in meeting the mercury standards. In a separate comment, a commenter suggested that the EPA should collect additional data to support variability in the quarry data.

Response: The final rule includes an IQV factor based on our statistical analysis of the quarry data provided by

[4] Refer to document titled "Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Amendments", section 2, comment 1, which is available in the docket for this action.

National Lime Association (NLA) for the Carmeuse Maysville and Graymont Eden lime manufacturing facilities. Case law on the use of an IQV factor in a rule requires the EPA to only consider quarry data representing the facilities that are in the MACT floor pool (''best performers''). The MACT floor pool in the lime source category consisted of two facilities: the Carmeuse Maysville and Graymont Eden lime manufacturing facilities. The quarry data from these 2 facilities were used to calculate the IQV factor in the February 9, 2024, supplemental proposal. No other quarry data were provided for the Carmeuse Maysville or Graymont Eden facilities during the public comment period, and, therefore, the quarry data of the Carmeuse Maysville and Graymont Eden facilities used to propose the IQV factor in the February 9, 2024, supplemental proposal was also used to set the IQV factor in this final rule.

2. What did we propose and what are the final mercury emission standards in this final rule?

Emissions data collected in support of the 2020 RTR based on EPA Methods 29 and 30B indicated the presence of mercury in emissions from lime manufacturing facilities. In the February 9, 2024, proposal the EPA evaluated the use of an intra-quarry variability (IQV) factor to be applied in the mercury UPL calculations to account for the naturally occurring variability in mercury content of the raw materials. Consistent with the approach followed in the Portland Cement Manufacturing NESHAP, 40 CFR part 63, subpart LLL, and the Brick and Structural Clay Products NESHAP, 40 CFR part 63, subpart JJJJJ, the IQV factor accounts for this variability in the mercury content of the raw material over geological time. For the reasons explained in the supplemental proposal, we are using an IQV factor in calculating the final mercury MACT standards.

As part of the evaluation of a mercury standard with the inclusion of an IQV factor, the EPA reevaluated whether a separate subcategory was necessary for kilns producing DB, as proposed in the January 5, 2023, proposed amendments. To do this, we first developed standards based on no subcategorization and the application of an IQV factor. The result of this analysis was 27 lb Hg/MMton for new sources and 34 lb Hg/MMton for existing sources. The EPA determined, based on the available test data, that kilns producing DB would be able to comply with the existing source standard after the application of air pollution controls. This determination differs from the evaluation the EPA performed when setting subcategories for HCl, where the chloride content of the raw materials indicated significant differences in the HCl emissions from the lime kilns. For consideration of mercury subcategories, after the application of an IQV factor, the new and existing mercury emission limits for kilns producing DL and QL were found to be similar to the emission limits for kilns producing DB lime, and therefore no subcategorization was determined to be needed due to these negligible differences in emissions between the types of lime produced. No additional data were provided during the supplemental proposal that would suggest or warrant setting subcategories for mercury. Therefore, we determined in this final action to not create subcategories based on stone produced in setting mercury emission limits.

To account for variability in the lime manufacturing operations and resulting emissions, the stack test data were used to calculate the mercury MACT floor limits based on the 99 percent UPL. The mercury MACT floor limits were calculated in units of pounds of pollutant per million tons of lime produced (lb/MMton lime produced). The final mercury emission limits for new and existing sources, including the IQV factor and without subcategories, are included in table 4.

TABLE 4—SUMMARY OF FINAL NEW AND EXISTING SOURCE LIMITS FOR MERCURY

Kiln type	Lime produced	New source limit (lb/MMton lime produced)	Existing source limit (lb/MMton lime produced)
All	All	27	34

C. Organic HAP Emission Standards

1. What comments did we receive on the organic HAP emission standards, and what are our responses?

The following key comments were received regarding the THC and organic HAP emission standards as proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal, respectively. The EPA responses to each comment are included. For all comments not discussed in this section, and the EPA's responses, can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing,* which is available in the docket for this action.

Comment: Commenters stated that the measured detection levels (MDL) used to calculate the aggregate organic HAP limit of the February 9, 2024, supplemental proposal should be summed on the same basis of moisture and oxygen. Commenters stated that the detection limit values do not appear to contain a correction for moisture, which can cause a significant difference in the final result. Similarly, as the final results are all to be corrected to a 7 percent oxygen concentration, an average oxygen concentration adjustment should also be made to the MDL values used for the floor calculation. Commenters argue that as this total result may contain some mix of detected and non-detected compounds, the MDL used for this standard setting should include this adjustment criteria.

Response: The EPA agrees with the commenters that the representative detection level (RDL) for the EPA Method 320 results should be adjusted to dry (EPA Method 18 results are already dry), and that the final organic HAP RDL should be corrected to 7 percent oxygen prior to comparing to the UPL. We have revised the memo and the RDL accordingly as well as correcting the emission limits for the new value.

2. What did we propose and what are the final organic HAP emission standards in this final rule?

The 2020 RTR emissions data included the results of testing 34 kiln exhaust stacks for the presence of total hydrocabons (THC) using EPA Method 25A. In addition, industry stakeholders provided emissions testing data that identified specific non-dioxin organic HAP. Based on an assessment of the available test data, the EPA identified 8 specific pollutants that were consistently emitted by the Lime Manufacturing source category. These include formaldehyde, acetaldehyde,

toluene, benzene, xylenes (a mixture of o, m, and p isomers), styrene, ethyl benzene, and naphthalene. The EPA determined from the 2020 RTR emissions data that the emissions of these 8 pollutants were consistently being emitted by the source category. Although the data suggested that other organic HAP were being emitted, the data indicated that the 8 pollutants were consistently being emitted by all sources for which we had data. Furthermore, the EPA determined that controlling the emissions of these 8 pollutants from a lime manufacturing facility would also control the facility's emissions of these other organic HAP. For these reasons, the EPA is finalizing the use of an aggregated emission limit for the 8 organic HAP identified in the data analysis as a surrogate for total organic HAP, which by controlling the emissions of these 8 pollutants from a lime manufacturing facility emission source (*i.e.,* lime kiln) a facility will also control the facility's emissions of any other organic HAP from the same source. Refer to the memorandum "Final Maximum Achievable Control Technology (MACT) Floor Analysis for the Lime Manufacturing Plants Industry," which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0015).

For each of the 8 organic HAP, the EPA calculated the emission limit value equivalent to 3 times the representative detection level (3xRDL) of the test method. The total of these was then compared to UPL calculations for the 8 pollutants. The new and existing UPLs were calculated based on a ranking of the average emission rates for the 8 organic HAP. In all cases for both new and existing sources, the 3xRDL value, which represents the lowest value that can be accurately measured, was above the calculated UPL. We are accordingly finalizing the MACT floor at this level. The new and existing source organic HAP MACT floor limits are summarized in table 5.

TABLE 5—SUMMARY OF FINAL NEW AND EXISTING SOURCE LIMITS FOR ORGANIC HAP

Kiln type	Lime roduced	New source limit [1] (ppmvd at 7 percent O_2)	Existing source limit [1] (ppmvd at 7 percent O_2)
All	All	2.6	2.6

[1] New and existing source organic HAP emission limit defined as the sum of 8 organic HAP identified as: formaldehyde, acetaldehyde, toluene, benzene, xylenes (a mixture of o, m, and p isomers), styrene, ethyl benzene, and naphthalene.

D. Dioxin/Furan Emission Standards

1. What comments did we receive on the dioxin/furan emission standards, and what are our responses?

The following key comments were received regarding the D/F emission standards as proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal. The EPA responses to each comment are included. For all comments regarding D/F not discussed in this section, and the EPA's responses, can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing,* which is available in the docket for this action.

Comment: Commenters indicated that in the absence of adequate data to set a numeric standard, the D.C. Circuit has upheld the EPA's promulgation of a non-numeric work practice standard. *Chesapeake Climate Action Network* v. *EPA,* 952 F.3d 310, 315 (D.C. Cir. 2020). Commenters stated that the EPA repeatedly and consistently informed them that the Agency was planning to issue a work practice for D/F because the D/F data showed that more than 55 percent of test results were non-detect. Commenters stated that they had multiple conversations with the EPA on the form a work practice could take, and that they submitted a suggested work practice (Docket ID No. EPA–HQ–OAR–2017–0015–0090). Commenters reiterated that due to extremely low D/F emissions, an appropriate work practice would require sources to properly operate the air pollution control devices already in place to control particulate matter.

Response: As described in the memorandum "Final Maximum Achievable Control Technology (MACT) Floor Analysis for the Lime Manufacturing Plants Industry," which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0015), half of the available test data was greater than the minimum detection limit, as determined according to the June 5, 2014, memorandum titled "Determination of 'non-detect' from EPA Method 29 (multi-metals) and EPA Method 23 (dioxin/furan) test data when evaluating the setting of MACT floors versus establishing work practice standards" (Docket ID No. EPA–HQ–OAR–2017–0015–0117) (Johnson 2014). Further, the EPA had in its possession data showing that at least one kiln emitted D/F at a level above 3xRDL. These facts demonstrates that the requirements to promulgate work practice standard (*i.e.,* that it is infeasible to measure emissions) has not been met. In accordance with CAA section 112(h), a work practice must be consistent with the requirements of setting emission standards detailed in section 112(d) of the CAA, (*i.e.,* it represents the average emissions performance for 12 percent of the best performing sources for existing sources, or the best performing source for new sources). No data was provided by the commenter's referenced material of a work practice which showed it represented the performance of the best performing sources; therefore, the EPA cannot determine if a work practice would be consistent with the requirements of section 112(d). As a general matter, lime production and kiln operations are not typical combustion sources where the majority of emissions are generated by the raw materials being heated in the kiln and for these reasons, the EPA did not set an alternative work practice standard in the final rule.

2. What did we propose and what are the final dioxin/furan emission standards in this final rule?

The 2020 RTR emissions data indicated the presence of D/F using EPA Method 23. The EPA followed the guidance of the Johnson 2014 memorandum (Docket ID No. EPA–HQ–OAR–2017–0015–0117), in using detection limits as an indicator of the measurable presence of a given pollutant, specifically where multi-component samples, such as with D/F congeners, are the pollutants of concern. Additionally, the EPA used the procedures laid out in the December 13, 2011, memorandum titled "Data and procedure for handling below detection level data in analyzing various pollutant emissions databases for MACT and RTR emissions limits" (Docket ID No. EPA–HQ–OAR–2017–0015–0119). Similar to

organic HAP, and in accordance with these guidance documents, the new and existing UPL for D/F were compared to the emission limit value determined to be equivalent to 3xRDL of the test method, and the 3xRDL value was found to be greater than the UPL. Therefore, the MACT floor limit for D/F was set based on the 3xRDL value of the test method. The D/F MACT floor limits for new and existing sources are summarized in table 6.

TABLE 6—SUMMARY OF FINAL NEW AND EXISTING SOURCE LIMITS FOR DIOXIN/FURANS

Kiln type	Lime produced	New source limit	Unit of measure	Existing source limit	Unit of measure
All	All	0.037	ng/dscm (TEQ) @7 percent O_2.	0.037	ng/dscm (TEQ) @7 percent O_2.

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

1. What comments did we receive on the January 5, 2023, proposed rule and February 9, 2024, supplemental proposal, and what are our responses?

The following key comments were received regarding other changes proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal. The EPA responses to each comment are included. For all comments not discussed in this section, and the EPA's responses, see the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing,* which is available in the docket for this action.

Comment: Commenters state that the EPA should allow for emissions averaging for organic HAP and for D/F. The commenters also suggest emissions averaging between subcategories, and between new and existing sources. Lastly, commenters stated that the requirement to submit an emission averaging plan for approval is unnecessary and unduly burdensome.

Response: The EPA disagrees with the commenters that the suggested revisions to the proposed emissions averaging compliance option would be appropriate. The EPA has generally imposed limits on the scope and nature of emissions averaging programs to assure that such programs achieve at least equivalent reductions in emissions as the primary standards. These limits include: (1) no averaging between different pollutants; (2) no averaging between sources that are not part of the same affected facility; (3) no averaging between individual sources within a single major source if the individual sources are not subject to the same NESHAP; and (4) no averaging between existing sources and new sources. The emissions averaging allowed under the emissions averaging compliance option in this final action fully satisfies each of these criteria. The EPA has included emissions averaging provisions for single kilns producing multiple types of lime as product.

The EPA disagrees with the commenter that the emissions averaging should include organic HAP and D/F. The organic HAP and D/F emission limits include multiple pollutants and congeners, and facilities will emit various combinations of these groups of pollutants. We find that emissions averaging is not appropriate for these groupings of pollutants in this source category. Consistent with emissions averaging programs in other source categories, the EPA is finalizing the emissions averaging compliance option as proposed, with restrictions against averaging between new and existing sources, or between subcategories. Although the requirement to submit an emissions averaging plan for approval is being finalized as proposed, the EPA has adjusted the deadline for submitting the emissions averaging plan from 180 days to 60 days before the compliance demonstration making the emissions averaging plan less burdensome.

2. What changes are included in this final rule?

We are finalizing an emissions averaging compliance alternative that allows lime manufacturing facilities to demonstrate compliance with the HCl and mercury standards by averaging emissions of each pollutant across existing kilns located at the same facility. Under these emissions averaging compliance alternative, a facility with more than one existing kiln may average emissions across the kilns located at the facility provided that the overall average emissions from the kilns demonstrating compliance under this provision do not exceed the limits included in table 7.

TABLE 7—EMISSIONS AVERAGING COMPLIANCE ALTERNATIVE FOR HCL AND MERCURY

Pollutant	Kiln type [1]	Lime produced [2]	Emissions averaging alternative limit	Unit of measure
Hydrogen Chloride	SR	DL, DB	2.1	lb/ton lime produced.
	SR	QL	0.47	lb/ton lime produced.
	PR	DL, DB	0.36	lb/ton lime produced.
	PR	QL	0.087	lb/ton lime produced.
	VK	DL, DB	0.36	lb/ton lime produced.
	VK	QL	0.019	lb/ton lime produced.
Mercury	All	All	31	lb/MMton lime produced.

[1] Straight rotary kiln (SR), preheater rotary kiln (PR), vertical kiln (VK).
[2] Dolomitic lime (DL), quick lime (QL), dead burned dolomitic lime (DB).

The emission limits included in table 7 reflect a 10 percent adjustment factor to the MACT floor standard. We expect that these emission limits would result in reductions of HCL and mercury greater than those achieved by application of the MACT floor on a unit-by-unit basis.

The emissions averaging program has restrictions. First, emissions averaging is not allowed between different pollutants. Second, emissions averaging

is only permissible among individual existing affected units at a single lime manufacturing plant. Third, emissions averaging is only permitted among kilns in the same subcategory. Lastly, new affected sources cannot use emissions averaging for compliance purposes.

We are finalizing a requirement for each facility intending to use this emissions averaging program to develop an emissions averaging plan that identifies: (1) all units in the averaging group; (2) the control technology installed; (3) the process parameter(s) that will be monitored; (4) the specific control technology or pollution prevention measure to be used; (5) the test plan for measuring the HAP being averaged; and (6) the operating parameters to be monitored for each control device.

F. Severability of Standards

This final rule includes MACT standards promulgated under CAA section 112(d)(2)–(3). We intend each separate portion of this rule to operate independently of and to be severable from the rest of the rule. Each set of standards rests on stand-alone scientific determinations that do not rely on judgments made in other portions of the rule. The EPA also finds that the implementation of each set of CAA 112(d)(2)–(3) MACT standards, including monitoring, record keeping, and reporting requirements, is independent. Thus, each aspect of the EPA's overall approach to this source category could be implemented even in the absence of any one or more of the other elements included in this final rule. Accordingly, the EPA finds that each set of standards in this final rule is severable from and can operate independently of each other set of standards.

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

The revisions to the MACT standards being promulgated in this action are effective on July 16, 2024. The compliance date for existing sources is July 16, 2027. New sources must comply with all of the standards immediately upon the effective date of the standard, July 16, 2024, or upon startup, whichever is later.

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

The following analyses of costs and benefits, and environmental, economic, and environmental justice impacts are presented for the purpose of providing the public with an understanding of the potential consequences of this final action. The EPA's obligation to conduct an analysis of the potential costs and benefits under Executive Order 12866 is distinct from its obligation in setting standards under CAA section 112 to take costs into account.

A. What are the affected facilities?

Currently, 34 major sources subject to the Lime Manufacturing NESHAP are operating in the United States. An affected source under the NESHAP is a lime manufacturing plant that is a major source, or that is located at, or is a part of, a major source of HAP emissions, unless the lime manufacturing plant is located at a kraft pulp mill, soda pulp mill, sulfite pulp mill, beet sugar manufacturing plant, or only processes sludge containing calcium carbonate from water softening processes. A lime manufacturing plant is an establishment engaged in the manufacture of lime products (calcium oxide, calcium oxide with magnesium oxide, or dead burned dolomite) by calcination of limestone, dolomite, shells, or other calcareous substances. A major source of HAP is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons or more, or any combination of HAP at a rate of 25 or more per year from all emission sources at the plant site.

The Lime Manufacturing NESHAP applies to each existing or new lime kiln and their associated cooler(s). In addition, the NESHAP applies to each PSH operation located at the plant. This includes storage bins, conveying systems and transfer points, bulk loading and unloading operations, screening operations, surge bins, and bucket elevators.

B. What are the air quality impacts?

This action finalizes standards for HCl, mercury, organic HAP, and D/F that will limit emissions and require, in some cases, the installation of additional controls at lime manufacturing plants at major sources. Compliance with the emission standards set in this final rule will result in a combined reduction of total HAP of 893 tons of HAP per year. Specifically, the emission standards of this action will reduce HCl emissions by 884 tons per year (tpy). The emission standards of this action will reduce mercury emissions by 457 lbs per year (0.23 tpy). The emission standards of this action will reduce organic HAP emissions by 8 tpy. Finally, the emission standards of this action will reduce D/F emissions by $9.5 \times 10-5$ lbs per year ($4.7 \times 10-8$ tpy).

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*e.g.,* increased secondary emissions of criteria pollutants from power plants). These secondary impacts typically include the energy needed to power the control devices, solid waste and wastewater generated from operation of the control devices, and air emissions that result from the generation of electricity used to operate the control devices. Secondary emissions typically include carbon monoxide (CO), nitrogen dioxide (NO_2), particulate matter (PM), particulate matter less than 2.5 microns ($PM_{2.5}$), sulfur dioxide (SO_2), carbon dioxide (CO_2), methane (CH_4), and nitrous oxide (N_2O). However, the extent of the increase in these pollutants is highly dependent on the type of fuel used in the EGUs. The EPA does not have any information that suggests that facilities in the lime manufacturing source category generate their own electricity and did not receive any new information about the source of electricity for these facilities from the request for comments in the supplemental proposal. Refer to the ''Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,'' in the docket for a detailed discussion of the analyses performed on potential secondary impacts and estimates of the total energy, solid waste, and wastewater impacts associated with the estimated controls required for compliance with the final standards (Docket ID No. EPA–HQ–OAR–2017–0015).

C. What are the cost impacts?

This action finalizes emission limits for new and existing sources in the Lime Manufacturing source category. Although the action contains requirements for new sources and we requested comment on new construction or plans for expanding facilities/operations; we are not aware of any new sources being constructed now or planned in the next 3 years, and, consequently, we did not estimate any cost impacts for new sources. We lack the data and modeling necessary to predict changes in the demand for lime manufacturing facilities due to other rulemakings or funded construction projects from the Inflation Reduction Act or Infrastructure Investment and Jobs Act. We estimate the total capital investment for existing sources in the Lime Manufacturing source category to be $485,000,000 and the total annualized cost of the final rule to be $166,000,000 per year. The annual costs

are expected to be based on operation and maintenance of the added control systems. A memorandum titled ''Final Cost Impacts for the Lime Manufacturing Plants Industry'' includes details of our cost assessment and is included in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0015).

D. What are the economic impacts?

For this action, the EPA estimated the cost of installing additional air pollution control devices in order to comply with the February 9, 2024, proposed emission limits. This includes both the capital costs of the initial installation and subsequent operation and maintenance costs. The EPA lacks the information necessary to independently assess the downtime loss of production due to capital improvements or deferred maintenance that would be associated with these controls for each affected facility. The assumed equipment life of the recommended controls for this NESHAP is twenty years. This default equipment life is based on information in the EPA Air Pollution Control Cost Manual. To assess the potential economic impacts, the expected annual cost was compared to the total sales revenue for the ultimate owners of affected facilities. For this rule, the expected annual cost is $4,900,0000 (on average) for each facility, with an estimated nationwide annual cost of $166,000,000 per year in perpetuity. The 34 affected facilities are owned by 11 parent companies, and the total costs associated with the final amendments to the rule are expected to be greater than 1 percent of annual sales revenue per ultimate owner.

Because the total costs associated with the proposed amendments are expected to be greater than 1 percent of annual sales revenue per owner in the Lime Manufacturing source category, there are economic impacts from these proposed amendments on the 3 affected facilities that are owned by 2 small entities. Refer to section IV.C. of this preamble for a detailed description of the small business outreach and regulatory flexibility analysis performed in conjunction with this rule.

The EPA predicts that the affected sources in the Lime Manufacturing source category will be able to pass on some of their compliance costs to their customers. International trade of lime products is limited and there are no readily available cost-competitive substitutes for lime.

The economic analysis indicates that, under the final amendments on an annual basis, domestic lime production is estimated to decline by 212,000 metric tons (1.4 percent), imports are estimated to increase by 37,000 metric tons (11.5 percent), and exports are estimated to decline by 22,000 metric tons (6.6 percent), resulting in an estimated net decline in the quantity of lime distributed to the domestic market by about 164,000 metric tons (1.0 percent). While the compliance costs are expected to have effects on the lime market, the impact estimates suggest that affected sources are not likely to face severe competition from foreign lime producers or from substitutes for their product. The magnitude of the impact estimates do not suggest that the compliance costs are likely to induce any changes to the market structure for lime through changes such as diversification or consolidation.

Information on our cost impact estimates on the sources in the Lime Manufacturing source category is available in the document titled ''Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,'' which is included in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0015).

E. What are the benefits?

The EPA did not monetize the benefits from the estimated emission reductions of HAP associated with this final action. The EPA currently does not have sufficient methods to monetize benefits associated with HAP reductions, and risk reductions for this rulemaking. However, we estimate that the final rule amendments would reduce emissions by 893 tons per year and thus lower risk of serious adverse health effects (such as cancer and neurodevelopmental toxicity) in communities near lime manufacturing plants. These unquantified benefits would be particularly impactful to pregnant women, infants and children in these communities, since these life stages are especially susceptible to exposures to chemicals such as carcinogens and neurodevelopmental toxicants. It is reasonable to expect that the emissions reductions from this rule would reduce the incidence of adverse effects among the exposed populations. Monetization of the benefits of reductions in cancer incidences requires several important inputs, including central estimates of cancer risks, estimates of exposure to carcinogenic HAP, and estimates of the value of an avoided case of cancer (fatal and non-fatal). We expect these emissions reductions to have beneficial effects on air quality and public health for populations exposed to emissions from lime manufacturing facilities. Due to methodology and data limitations, we did not attempt to monetize the health benefits of reductions in HAP in this analysis. We have determined that quantification of those benefits cannot be accomplished for this final rule. Instead, we are providing a qualitative discussion of the health effects associated with reductions in HAP emitted from sources subject to control under the final action.

Information on our qualitative discussion of the health effects associated with HAP emitted from sources in the Lime Manufacturing source category is available in the document titled ''Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,'' which is included in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0015).

F. What analysis of environmental justice did we conduct?

For purposes of analyzing regulatory impacts, the EPA relies upon its June 2016 ''Technical Guidance for Assessing Environmental Justice in Regulatory Analysis,'' which provides recommendations that encourage analysts to conduct the highest quality analysis feasible, recognizing that data limitations, time, resource constraints, and analytical challenges will vary by media and circumstance. The technical guidance states that a regulatory action may involve potential EJ concerns if it could: (1) Create new disproportionate impacts on communities with EJ concerns; (2) exacerbate existing disproportionate impacts on communities with EJ concerns; or (3) present opportunities to address existing disproportionate impacts on communities with EJ concerns through this action under development.

The EPA's EJ technical guidance states that ''[t]he analysis of potential EJ concerns for regulatory actions should address 3 questions: (A) Are there potential EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern in the baseline? (B) Are there potential EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern for the regulatory option(s) under consideration? (C) For the regulatory option(s) under consideration, are potential EJ concerns

created or mitigated compared to the baseline?" [5]

The environmental justice analysis is presented for the purpose of providing the public with as full as possible an understanding of the potential impacts of this final action. The EPA notes that analysis of such impacts is distinct from the determinations finalized in this action under CAA section 112, which are based solely on the statutory factors the EPA is required to consider under those sections.

To examine the potential for any EJ issues that might be associated with lime manufacturing facilities, we performed a proximity demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 km (~3.1 miles) and 50 km (~31 miles) of the facilities. The EPA then compared the data from this analysis to the national average for each of the demographic groups. In this preamble, we focus on the proximity results for the populations living within 5 km (~3.1 miles) of the facilities. The results of this proximity analysis for populations living within 50 km are included in the technical document titled *Analysis of Demographic Factors for Populations Living Near Lime Manufacturing Facilities,* which is available in the docket for this action.

The results (see table 8) show that for populations within 5 km of the 34 lime manufacturing facilities, the following demographic groups were above the national average: Hispanic/Latino (37 percent versus 19 percent nationally), linguistically isolated households (21 percent versus 5 percent nationally), people living below the poverty level (27 percent versus 13 percent nationally), and people without a high school diploma (17 percent versus 12 percent nationally). A summary of the proximity demographic assessment performed for the major source lime manufacturing facilities is included as table 8. The methodology and the results of the demographic analysis are presented in the report *Analysis of Demographic Factors for Populations Living Near Lime Manufacturing Facilities,* available in this docket for this action (Docket ID No. EPA–HQ–OAR–2017–0015).

TABLE 8—PROXIMITY DEMOGRAPHIC ASSESSMENT RESULTS FOR MAJOR SOURCE LIME MANUFACTURING FACILITIES

Demographic group	Nationwide	Population within 5 km of facilities
Total Population	328,016,242	473,343
Race and Ethnicity by Percent		
White	60 percent	50 percent.
Black	12 percent	9 percent.
American Indian and Alaska Native	0.7 percent	0.9 percent.
Hispanic or Latino (includes white and nonwhite)	19 percent	37 percent.
Other and Multiracial	8 percent	3 percent.
Income by Percent		
Below Poverty Level	13 percent	27 percent.
Above Poverty Level	87 percent	73 percent.
Education by Percent		
Over 25 and without a High School Diploma	12 percent	17 percent.
Over 25 and with a High School Diploma	88 percent	83 percent.
Linguistically Isolated by Percent		
Linguistically Isolated	5 percent	21 percent.

Notes:

- Nationwide population and demographic percentages are based on the Census' 2015–2019 American Community Survey 5-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts within 5 km of all facilities are based on the 2010 Decennial Census block populations.
- Minority population is the total population minus the white population.
- To avoid double counting, the "Hispanic or Latino" category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, Black, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.

The human health risk estimated for this source category for the July 24, 2020, RTR (85 FR 44960) was determined to be acceptable, and the standards were determined to provide an ample margin of safety to protect public health. Specifically, the maximum individual cancer risk was 1-in-1 million for actual emissions (2-in-1 million for allowable emissions) and the noncancer hazard indices for chronic exposure were well below 1 (0.04 for actual emissions, 0.05 for allowable emissions). The noncancer hazard quotient for acute exposure was 0.6, also below 1. The final revisions to the NESHAP subpart AAAAA will reduce emissions by 893 tons of HAP per year, and therefore, further improve human health exposures for the populations and individuals most exposed to this pollution, including communities with environmental justice concerns. The proposed changes will have beneficial effects on air quality and public health for populations exposed to

[5] "Technical Guidance for Assessing Environmental Justice in Regulatory Analysis," U.S. EPA, June 2016. Quote is from Section 3—Key Analytic Considerations, page 11. *https://www.epa.gov/environmentaljustice/technical-guidance-assessing-environmental-justice-regulatory-analysis.*

emissions from lime manufacturing facilities.

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

In the July 24, 2020, final Lime Manufacturing NESHAP RTR (85 FR 44960), the EPA conducted a residual risk assessment and determined that risk from the Lime Manufacturing source category was acceptable, and the standards provided an ample margin of safety to protect public health. This action finalizes first-time emissions standards for HCl, mercury, organic HAP, and D/F. Specifically, compliance with the emission standards set in this final rule will result in a combined reduction of total HAP of 893 tons of HAP per year.

This action's health and risk assessments are protective of the most vulnerable populations, including children, due to how we determine exposure and through the health benchmarks that we use. Specifically, the risk assessments we perform assume a lifetime of exposure, in which populations are conservatively presumed to be exposed to airborne concentrations at their residence continuously, 24 hours per day for a 70-year lifetime, including childhood. With regards to children's potentially greater susceptibility to noncancer toxicants, the assessments rely on the EPA's (or comparable) hazard identification and dose-response values that have been developed to be protective for all subgroups of the general population, including children. For example, mercury exposure is of particular importance to children, infants, and the developing fetus given the developmental neurotoxicity of mercury. In addition, children may be more vulnerable to corrosive agents, such as HCl, than adults because of the relatively smaller diameter of their airways. Children may also be more vulnerable to gas exposure because of increased minute ventilation per kg and failure to evacuate an area promptly when exposed. For more information on the risk assessment methods, see the risk report for the 2020 RTR rule, which is available in the docket (Docket ID No. EPA–HQ–OAR–2017–0015).

V. Statutory and Executive Order Reviews

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

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

This final action is significant under E.O. 12866 Section 3(f)(1) as amended by E.O. 14094. Accordingly, the EPA has prepared a Regulatory Impact Analysis (RIA). Documentation of any changes made in response to the Executive Order 12866 review is available in the docket. The EPA prepared an economic analysis of the potential impacts associated with this action. This analysis is included in the document titled "Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants" and is also available in the docket (Docket ID No. EPA–HQ–OAR–2017–0015).

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2072.11. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The final rule ICR describes changes to the reporting and recordkeeping requirements for the Lime Manufacturing Plants NESHAP associated with the incorporation of reporting and recordkeeping requirements associated with the new and existing source MACT standards for HCl, mercury, organic HAP, and D/F.

Respondents/affected entities: Owners or operators of lime manufacturing plants that are major sources, or that are located at, or are part of, major sources of HAP emissions, unless the lime manufacturing plant is located at a kraft pulp mill, soda pulp mill, sulfite pulp mill, sugar beet manufacturing plant, or only processes sludge containing calcium carbonate from water softening processes.

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

Estimated number of respondents: 34.

Frequency of response: The frequency of responses varies depending on the burden item.

Total estimated burden: 8,392 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,190,000 (per year), includes $335,000 annualized capital or operation & maintenance costs.

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

C. Regulatory Flexibility Act (RFA)

Pursuant to sections 603 and 609(b) of the RFA, the EPA prepared an initial regulatory flexibility analysis (IRFA) for the February 9, 2024, supplemental proposal and convened a Small Business Advocacy Review (SBAR) Panel to obtain advice and recommendations from small entity representatives that potentially would be subject to the rule's requirements. Summaries of the IRFA and Panel recommendations are presented in the February 9, 2024, supplemental proposal (89 FR 9088).

As required by section 604 of the RFA, the EPA prepared a final regulatory flexibility analysis (FRFA) for this action. The FRFA addresses the issues raised by public comments on the IRFA for the proposed rule. The complete FRFA is available for review in the memorandum "Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants," which is included in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0015) and is summarized here.

1. Statement of Need and Rule Objectives

This industry is regulated by the EPA because pollutants emitted from lime manufacturing facilities are considered to cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health. This action establishes standards for currently unregulated pollutants: hydrogen chloride, mercury, organic HAP, and dioxin/furans. The decision in *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020) concluded that the EPA is required to address regulatory gaps (*i.e.,* "gap-filling") when conducting NESHAP reviews.

2. Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA) and EPA Response

While the EPA did not receive any comments specifically in response to the IRFA, we did receive comments from the Office of Advocacy within the Small Business Administration (SBA), and a summary of the major comments and our responses is provided in the next section. The issues raised by SBA were also reflected in comments from small businesses and organizations with small business interests.

3. SBA Office of Advocacy Comments and EPA Response

The SBA's Office of Advocacy (hereafter referred to as ''Advocacy'') provided substantive comments on the January 5, 2023, Proposal and the February 9, 2024, supplemental proposal. Advocacy stated that while the amendments contain many positive recommendations from the 2023 SBAR panel conducted on EPA's proposed changes to the NESHAP for lime manufacturing plants, they recommend additional refinements.

In response to Advocacy's comments, the EPA recognizes the impacts the emission standards will have on the industry and specifically to small businesses. The EPA has incorporated regulatory flexibilities into the final rule where warranted to address the impacts on small businesses in the source category. These flexibilities include subcategorization of HCl emission limits, an IQV factor for mercury, and an aggregated organic HAP emission limit. The EPA has worked with the lime manufacturing industry, and with the small businesses within the source category, to ensure the emission standards being finalized are accurate and representative of lime manufacturing operations. We disagree with Advocacy about setting health-based standards for HCl for reasons discussed in section III.A of this preamble. Additionally, we disagree with Advocacy that the EPA does not have enough information to set D/F emission standards, as discussed in section III.D of this preamble.

More detailed responses to Advocacy's comments can be found in the document *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Amendments,* available in the docket for this rulemaking.

4. Estimate of the Number of Small Entities to Which the Final Rule Applies

For purposes of assessing the impacts of this rule on small entities, a small entity is defined as a small business in the lime manufacturing industry whose parent company has revenues or numbers of employees below the SBA Size Standards for the relevant NAICS code. A complete list of those NAICS codes and SBA Size Standards is available in section 6 of the document titled ''Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,'' available in the docket for this rulemaking. The EPA estimates there are 34 affected facilities owned by 11 different parent companies. Two of the ultimate parent companies owning affected facilities are small entities. These small entities operate three facilities with a total of five kilns. They represent less than 5 percent of the total production capacity of the source category.

5. Projected Reporting, Recordkeeping and Other Compliance Requirements of the Final Rule

Under the rule requirements, small entities will be required to comply with the four emission standards in the final rule, which may require the use of one or more control devices new to the small entity. Small entities will also need to demonstrate compliance with the emission standards through the use of periodic performance testing and parametric monitoring. See section 6 of the document titled ''Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,'' available in the docket for this rulemaking, for more information on the characterization of the impacts under the rule.

6. Steps Taken To Minimize Economic Impact to Small Entities

a. Small Business Advocacy Review Panel

As required by section 609(b) of the RFA, the EPA convened a Small Business Advocacy Review (SBAR) Panel to obtain advice and recommendations from small entity representatives (SERs) that potentially would be subject to the rule's requirements. On July 21, 2023, the EPA's Small Business Advocacy Chairperson convened the Panel. In light of the SERs' feedback and comments, the Panel considered the regulatory flexibility issues and elements of an IRFA specified by RFA/Small Business Regulatory Enforcement and Fairness Act and developed the findings and discussion summarized in the SBAR Panel Report. The report was finalized on November 6, 2023, and transmitted to the EPA Administrator for consideration. A copy of the full SBAR Panel Report is available in the rulemaking docket.

b. Alternatives Considered

The SBAR Panel recommended several flexibilities including the consideration of health-based standards for HCl, an IQV for mercury, an aggregated organic HAP emission standard, retaining subcategorization for HCl numeric emissions limits, and work practice standards for D/F in a place of a numeric limit. The EPA included some of these flexibilities as a part of this final rule.

As discussed in section III.A of this preamble, the EPA is not considering a health-based standard for HCl. The final rule does include an IQV factor for mercury and an aggregate organic HAP emission limit, as discussed in sections III.B and III.C of this preamble. However, as discussed in section III.D of this preamble, the EPA did not receive data supporting a work practice standard for D/F, and, therefore, the EPA is not finalizing a work practice standard for D/F in this action.

In addition, the EPA is preparing a Small Entity Compliance Guide to help small entities comply with this rule. The Small Entity Compliance Guide will be available on the same date as the date of publication of the final rule or as soon as possible after that date and will be available on the rule web page at: *https://www.epa.gov/stationary-sources-air-pollution/lime-manufacturing-plants-national-emission-standards-hazardous.*

D. Unfunded Mandates Reform Act (UMRA)

This action contains a Federal mandate that may result in expenditures of $183 million in 2023$ ($100 million in 1995$ adjusted for inflation using the gross domestic product (GDP) implicit price deflator) or more as described in UMRA, 2 U.S.C. 1531–1538, for the private sector in any one year. Accordingly, the EPA has prepared a written statement required under section 202 of UMRA. The statement is included in the document titled ''Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,'' included in the docket for this rulemaking (Docket ID No. EPA–HQ–

OAR–2017–0015), and briefly summarized here.

The EPA has concluded that this final rule may require expenditures of $100 million or more in any one year by the private sector. Such expenditures may include capital costs of purchasing and installing control technologies to meet the amended standards under the final rule. See section 6 of the document titled ''Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,'' *available in the docket for this rulemaking,* for more information on the characterization of the economic impacts, including capital cost inputs, under the rule.

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. The EPA does not know of any lime manufacturing facilities owned or operated by Indian Tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is subject to Executive Order 13045 because it is a significant regulatory action under section 3(f)(1) of Executive Order 12866, and the EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children. For example, mercury exposure is of particular importance to children, infants, and the developing fetus given the developmental neurotoxicity of mercury. In addition, children may be more vulnerable to corrosive agents, such as HCl, than adults because of the relatively smaller diameter of their airways. Children may also be more vulnerable to gas exposure because of increased minute ventilation per kg and failure to evacuate an area promptly when exposed. Accordingly, we have evaluated the environmental health or safety effects of the air emissions from lime manufacturing on children.

The results of this evaluation are contained in the docket of this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0015).

This action is preferred over other regulatory options analyzed because this action finalizes emission standards for 4 previously unregulated pollutants; therefore, the rule includes health benefits to children by reducing the level of HAP emissions emitted from the lime manufacturing process.

Furthermore, EPA's *Policy on Children's Health* also applies to this action. Information on how the Policy was applied is available under ''What analysis of children's environmental health did we conduct?'' in this preamble.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. In this final action, the EPA is setting emission standards for 4 previously unregulated pollutants. This does not impact energy supply, distribution, or use.

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

This action involves technical standards. Therefore, the EPA conducted searches for the Lime Manufacturing NESHAP through the Enhanced National Standards Systems Network (NSSN) Database managed by the American National Standards Institute (ANSI). We also conducted a review of voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 23, 25A, 29, 30B, 320, and 321. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's referenced method, the EPA ordered a copy of the standard and reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA referenced methods. The EPA may reconsider determinations of impracticality when additional information is available for any particular VCS.

Two VCS were identified as acceptable alternatives to the EPA test methods for this final rule. The VCS ASTM D6784–16, ''Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),'' is an acceptable alternative to EPA Method 29 (portion for mercury only) as a method for measuring mercury. The VCS ASTM D6348–12e1, ''Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy,'' is an acceptable alternative to EPA Method 320 with certain conditions. Detailed information on the VCS search and determination can be found in the memorandum, ''Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Technology Review'', which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0015).

The EPA is incorporating by reference the VCS ASTM D6348–12 (Reapproved 2020), ''Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy,'' as an acceptable alternative to EPA Method 320 (referenced in NESHAP subparts F and U) with caveats requiring inclusion of selected annexes to the standard as mandatory. This ASTM procedure uses an extractive sampling system that routes stationary source effluent to an FTIR spectrometer for the identification and quantification of gaseous compounds. We note that we proposed VCS ASTM D6348–12e1 as an alternative to EPA Method 320; however, since proposal, a newer version of the method (VCS ASTM D6348–12 (Reapproved 2020)) is now available, and we have determined it to be equivalent to EPA Method 320 with caveats. The VCS ASTM D6348–12 (Reapproved 2020) method is an extractive FTIR Spectroscopy-based field test method and is used to quantify gas phase concentrations of multiple target compounds in emission streams from stationary sources. When using ASTM D6348–12 (Reapproved 2020), the following conditions must be met: (1) Annexes Al through A8 to ASTM D6348–12 (Reapproved 2020) are mandatory; and (2) in ASTM D6348–12

(Reapproved 2020) Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). For the test data to be acceptable for a compound, %R must be 70% ≥ R ≤ 130%. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

Reported Results = ((Measured Concentration in Stack))/(%R) × 100.

The EPA is incorporating by reference the VCS ASTM D6784–16), ''Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),'' as an acceptable alternative to EPA Method 29 (portion for mercury only) as a method for measuring elemental, oxidized, particle-bound, and total mercury concentrations ranging from approximately 0.5 to 100 micrograms per normal cubic meter. This test method describes equipment and procedures for obtaining samples from effluent ducts and stacks, equipment and procedures for laboratory analysis, and procedures for calculating results. VCS ASTM D6784–16 allows for additional flexibility in the sampling and analytical procedures for the earlier version of the same standard VCS ASTM D6784–02 (Reapproved 2008). ASTM D6784–16 allows for the use of either an EPA Method 17 sampling configuration with a fixed (single) point where the flue gas is not stratified, or an EPA Method 5 sampling configuration with a multi-point traverse. These methods are available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036. See *https://www.astm.org/*. The standards are available to everyone at a cost determined by ASTM. The costs of obtaining these methods are not a significant financial burden, making the methods reasonably available.

Additionally, the EPA is incorporating by reference ''Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds'' (EPA/100/R–10/005 December 2010), which is the source of the toxicity equivalence factors (TEF) for dioxins and furans used in calculating the toxic equivalence quotient of the proposed dioxin and furan standard. This document describes the EPA's updated approach for evaluating the human health risks from exposures to environmental media containing dioxin-like compounds. The EPA recommends that the TEF methodology, a component mixture method, be used to evaluate human health risks posed by these mixtures, using TCDD as the index chemical. The EPA recommends the use of the consensus TEF values for 2,3,7,8-tetrachlorodibenzo-p-dioxin and dioxin-like compounds published in 2005 by the World Health Organization. This is the international method of expressing toxicity equivalents for dioxins/furans where a recommended TEF is multiplied by each individual compound's (congener) emission concentration to calculate the 2,3,7,8-Tetrachlorodibenzo-p-dioxin toxicity equivalents (TEQ). To estimate risk associated with the mixture, the dose-response function for the index chemical is evaluated at this sum, which is an estimate of the total index chemical equivalent dose for the mixture components being considered. The document is available on the EPA website, *https://www.epa.gov/risk/documents-recommended-toxicity-equivalency-factors-human-health-risk-assessments-dioxin-and.*

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA anticipates that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on communities with environmental justice (EJ) concerns. The assessment of populations in close proximity of lime manufacturing facilities shows Hispanic and linguistically isolated groups are higher than the national average (see section IV.F. of the preamble). The higher percentages are driven by 4 of the 34 facilities in the source category.

The EPA anticipates this action is likely to reduce existing disproportionate and adverse effects on communities with EJ concerns. The EPA is finalizing MACT standards for HCl, mercury, organic HAP, and D/F. The EPA expects that the 4 facilities would have to implement control measures to reduce emissions to comply with the MACT standards and that HAP exposures for the people living near these facilities (including those communities with EJ concerns) would decrease.

The information supporting this Executive order review is contained in section IV.F of the preamble.

K. Congressional Review Act (CRA)

This action is subject to the CRA., and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action meets the criteria set forth in 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Michael S. Regan,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

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

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

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

Subpart A—General Provisions

■ 2. Amend § 63.14 by revising paragraphs (i)(89) and (105) and (o)(1) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(i) * * *

(89) ASTM D6348–12 (Reapproved 2020), Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for §§ 63.109(a); 63.365(b); 63.509(a); 63.7322(d), (e), and (g); 63.7825(g) and (h); table 5 to subpart AAAAA.

* * * * *

(105) ASTM D6784–16, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), Approved March 1, 2016; IBR approved for §§ 63.1450(d); 63.7322(c); table 5 to subpart UUUUU; appendix A

to subpart UUUUU; table 5 to subpart AAAAA; 63.9621.

* * * * *

(o) * * *

(1) EPA/100/R–10/005, Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds, December 2010; IBR approved for §§ 63.1450(f); 63.1459; table 2 to subpart QQQ; table 1 to subpart AAAAA. (Available at *https://www.epa.gov/sites/default/files/2013-09/documents/tefs-for-dioxin-epa-00-r-10-005-final.pdf.*)

* * * * *

Subpart AAAAA—National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants

■ 3. Amend § 63.7082 by:

■ a. Revising paragraph (b);

■ b. Redesignating paragraphs (c) through (j) as paragraphs (d) through (k);

■ c. Adding new paragraph (c); and

■ d. Revising newly redesignated paragraph (f).

The revisions and addition read as follows:

§ 63.7082 What part of my plant does this subpart cover?

* * * * *

(b) For purposes of complying with the PM emissions limitations of this subpart, a new lime kiln is a lime kiln, and (if applicable) its associated lime cooler, for which construction or reconstruction began after December 20, 2002, if you met the applicability criteria in § 63.7081 at the time you began construction or reconstruction.

(c) For the purposes of complying with the HCl, mercury, organic HAP, and D/F emissions limitations of this subpart, a new lime kiln is a lime kiln (only) for which construction or reconstruction began after January 5, 2023, if you met the applicability criteria in § 63.7081 at the time you began construction or reconstruction.

* * * * *

(f) An existing lime kiln is any lime kiln, and (when complying with PM emissions limitations) its associated lime cooler, that does not meet the definition of a new kiln of paragraphs (b) and (c) of this section.

* * * * *

■ 4. Amend § 63.7083 by:

■ a. Revising paragraphs (a) and (b);

■ b. Redesignating paragraphs (c) through (e) as paragraphs (e) through (g); and

■ c. Adding new paragraphs (c) and (d) and paragraph (h).

The revisions and additions read as follows:

§ 63.7083 When do I have to comply with this subpart?

(a) If you have a new affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If you start up your affected source before January 5, 2004, you must comply with the PM emission limitations no later than January 5, 2004, and you must have completed all applicable performance tests no later than July 5, 2004, except as noted in paragraphs (g)(1) and (2) of this section.

(2) If you start up your affected source after January 5, 2004, then you must comply with the PM emission limitations for new affected sources upon startup of your affected source and you must have completed all applicable performance tests no later than 180 days after startup, except as noted in paragraphs (g)(1) and (2) of this section.

(b) If you have an existing affected source you must comply with the applicable PM emission limitations for the existing affected source, and you must have completed all applicable performance tests no later than January 5, 2007, except as noted in paragraphs (g)(1) and (2) of this section.

(c) If you start up your affected source after July 16, 2024, then you must comply with all emission limitations for new affected sources upon startup of your affected source and you must have completed all applicable performance tests no later than 180 days after startup, except as noted in paragraphs (h)(1) and (2) of this section.

(d) If you have an existing affected source you must comply with all applicable emission limitations for the existing affected source, and you must have completed all applicable performance tests no later than July 16, 2027, except as noted in paragraphs (h)(1) and (2) of this section.

* * * * *

(h)(1) If your affected source commenced construction or reconstruction on or before January 5, 2023, then the compliance date for HCl, mercury, total organic HAP, and D/F emissions limitations is July 16, 2027.

(2) If your affected source commenced construction or reconstruction after July 16, 2024, then the compliance date for HCl, mercury, total organic HAP, and D/F emissions limitations is July 16, 2024, or the date of initial startup, whichever is later.

■ 5. Amend § 63.7090 by adding paragraph (d) to read as follows:

§ 63.7090 What emission limitations must I meet?

* * * * *

(d) For those LMP using emissions averaging for either HCl emission limits or mercury emission limits in accordance with the procedures in § 63.7114(b) and (c), must not exceed the applicable emission limits in table 9 to this subpart.

■ 6. Amend § 63.7100 by revising paragraph (a) to read as follows:

§ 63.7100 What are my general requirements for complying with this subpart?

(a) Prior to the relevant compliance date for your source as specified in § 63.7083(e), you must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction. On and after the relevant compliance date for your source as specified in § 63.7083(e), you must be in compliance with the applicable emission limitations (including operating limits) at all times. You may operate outside of the established operating parameter limit(s) during performance tests in order to establish new operating limits.

* * * * *

■ 7. Amend § 63.7110 by adding paragraph (f) to read as follows:

§ 63.7110 By what date must I conduct performance tests and other initial compliance demonstrations?

* * * * *

(f) If your affected source commenced construction or reconstruction before July 16, 2024, you must demonstrate initial compliance with the emission limitation in in this subpart no later than July 16, 2027, or within 180 calendar days after startup of the source, whichever is later, according to §§ 63.7(a)(2)(ix) and 63.7114.

■ 8. Amend § 63.7112 by:

■ a. Revising paragraphs (b), (d), and (j)(1); and

■ c. Adding paragraphs (n) and (o).

The revisions and additions read as follows:

§ 63.7112 What performance tests, design evaluations, and other procedures must I use?

* * * * *

(b) Prior to the relevant compliance date for your source as specified in § 63.7083(e), each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions specified in table 5 to this subpart. Beginning July 16, 2024, each performance test must include the methods specified in rows

19–24 of table 5 to this subpart. On and after the relevant compliance date for your source as specified in § 63.7083(e), each performance test must be conducted based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source and under the specific conditions in table 5 to this subpart. Representative conditions exclude periods of startup and shutdown. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests. Performance tests conducted in accordance with table 5 are not required to be performed at the same time.

* * * * *

(d) Except for opacity and VE observations, you must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour or as specified in table 5 to this subpart.

* * * * *

(j) * * *

(1) Continuously record the parameter during the performance test and include the parameter record(s) in the performance test report.

* * * * *

(n) The emission rate of mercury and hydrogen chloride (HCl) from each lime kiln (and each lime cooler as applicable) must be computed for each run using equation 4 to this paragraph (n):

Equation 4 to Paragraph (n)

$$E = \frac{(C_k Q_k + C_c Q_c)}{KP} \qquad (Eq. 4)$$

Where:

E = Emission rate of mercury, pounds per thousand tons (lb/MMton) of lime produced or HCl pounds per ton (lb/ton) of lime produced.

C_k = Concentration in the kiln effluent of mercury, micrograms/dry standard cubic feet (µg/dscf) or HCl, parts per million by volume on a dry basis (ppmvd).

Q_k = Volumetric flow rate of kiln effluent gas, dry standard cubic feet per hour (dscf/hr).

C_c = Concentration in the cooler effluent of mercury, µg/dscf or HCl, ppmvd. This value is zero if there is not a separate cooler exhaust to the atmosphere.

Q_c = Volumetric flow rate of cooler effluent gas, dscf/hr. This value is zero if there is not a separate cooler exhaust to the atmosphere.

P = Lime production rate, tons per hour (ton/hr).

K = Conversion factor, for mercury, 4.4×10^8 micrograms per pound (µg/lb) for HCL 1.09×10^7 ppmvd HCl per lb/dscf HCl.

(o) The concentration of total hydrocarbons and dioxins/furans shall be correct to 7 percent oxygen using equation 5 to this paragraph (o):

Equation 5 to Paragraph (o)

$$C_{7\%} = C_{unc} * \frac{13.9}{(20.9 - C_{O2})} \qquad (Eq. 5)$$

Where:

$C_{7\%}$ = concentration of total hydrocarbons ppmv as propane on a dry basis or dioxins/furans in ng/dscm corrected to 7 percent oxygen.

C_{unc} = uncorrected total hydrocarbon concentration, ppmv as propane on a dry basis basis or dioxins/furans in ng/dscm.

C_{O2} = concentration of oxygen (percent).

■ 9. Amend § 63.7113 by adding paragraphs (h) and (i) to read as follows:

§ 63.7113 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(h) For each mass flow rate monitor used for measuring the dry sorbent injection rate (*e.g.,* sorbent, activated carbon, etc.) you must meet the requirements of (h)(1) through (3) of this section.

(1) Locate the device in a position(s) that provides a representative measurement of the total sorbent injection rate.

(2) Install and calibrate the device in accordance with manufacturer's procedures and specifications.

(3) At least annually, calibrate the device in accordance with the manufacturer's procedures and specifications.

(i) For each temperature monitoring device installed to monitor the temperature of a thermal oxidizer, you must meet the requirements of (i)(1) through (3) of this section.

(1) Install the temperature monitoring device in the fire box or in the ductwork immediately downstream of the fire box in a position before any substantial heat exchange occurs.

(2) The temperature measurement system must be capable of measuring the temperature over a range that extends at least 20 percent beyond the normal expected operating range and has an accuracy of ±1 percent of temperature measured or 2.8 degrees Celsius (5 degrees Fahrenheit) whichever is greater. The data recording system associated with affected CPMS must have a resolution that is equal to or better than one-half of the required system accuracy.

(3) The calibration reference for the temperature measurement must be a National Institute of Standards and Technology (NIST) calibrated reference thermocouple-potentiometer system, NIST traceable certified reference thermocouple, or alternate reference, subject to approval by the Administrator.

(4) The calibration of all thermocouples and other temperature sensors must be verified at least once every three months.

■ 10. Amend § 63.7114 by:

■ a. Redesignating paragraphs (b) and (c) as paragraphs (d) and (e); and

■ b. Adding new paragraphs (b) and (c).

The additions read as follows:

§ 63.7114 How do I demonstrate initial compliance with the emission limitations standard?

* * * * *

(b) For those LMP that comply with either the HCl emissions limit or the mercury emission limit using emissions averaging, the average HCl or mercury emissions determined according to the procedures in § 63.7112(n), must not

exceed the applicable emission limit in table 9 to this subpart.

(c) For those LMP that comply with either the HCl emissions limit or the mercury emission limit using emissions averaging, you must comply with the requirements in paragraphs (c)(1) through (4) of this section.

(1) You must complete the stack testing required in paragraph § 63.7112(n) for all lime kilns you wish to include in the emission average before submitting the implementation plan required in paragraph (c)(2) of this section.

(2) You must develop and submit to the applicable regulatory authority for review and approval, an implementation plan for emission averaging no later than 180 days before the date you intend to demonstrate compliance using the emission averaging option. You must include the information contained in paragraphs (c)(2)(i) through (iii) of this section in your implementation plan.

(i) Identification of all lime kilns in the averaging group, including the lime kiln subcategory, type of lime produced, typical stone production rate, control technology installed, and types of fuel(s) that will be burned.

(ii) The HCl or mercury emission rate for each lime kiln for each of the fuels identified in paragraph (c)(2)(i) of this section.

(iii) The date on which you are requesting emission averaging to commence.

(3) The regulatory authority shall review and approve or disapprove the plan according to the following criteria:

(i) Whether the content of the plan includes all the information specified in paragraph (c)(2) of this section; and

(ii) Whether the plan presents sufficient information to determine that compliance will be achieved and maintained.

(4) The applicable regulatory authority shall not approve an emission averaging implementation plan containing any of the following provisions:

(i) Averaging between emissions of differing pollutants;

(ii) Averaging that includes lime kilns constructed or reconstructed on or after July 16, 2024; or

(iii) Averaging between lime kilns located at different facilities.

(iv) Averaging between lime kilns in different subcategories.

* * * * *

■ 11. Amend § 63.7121 by adding paragraph (g) to read as follows:

§ 63.7121 How do I demonstrate continuous compliance with the emission limitations standard?

* * * * *

(g) If you elect to comply with either the HCl emission limit or the mercury emission limit in table 9 to this subpart using emissions averaging in accordance with an implementation plan approved under the provisions in § 63.7114(c) you must comply with the requirements in paragraphs (g)(1) through (8) of this section.

(1) For lime kilns included in the emissions averaging group that are equipped with dry sorbent injection (DSI) or activated carbon injection (ACI) systems, you must comply with the requirements in § 63.7113(h).

(2) For kilns included in the emissions averaging group that use a control device or method other than DSI or ACI, you must comply with your site-specific monitoring plan of this section, in accordance with the requirements of § 63.7100(d).

(3) Calculate the monthly production-weighted average emission rate using the HCl or mercury emission rate determined during the last performance test and the actual production data for each kiln included in the emissions averaging option, as shown in equation 1 to this paragraph (g)(3).

Equation 1 to Paragraph (g)(3)

$$E_g = \frac{\sum_{k=1}^{n}(E_k X P_k)}{\sum_{k=1}^{n}(P_k)} \quad (Eq.1)$$

Where:

E_g = Monthly production-weighted average emission rate for month "g" for the group of kilns;

E_k = Average emission rate for kilns "k", as determined during the last compliance stack test;

P_k = Total monthly production of lime produced for kilns "k"; and

n = Number of kilns in the averaging group.

(4) Until 12 monthly weighted average emission rates have been accumulated, the monthly weighted average emissions rate, calculated as shown in paragraph (g)(3) of this section, must not exceed the emission limit in table 9 to this subpart in any calendar month.

(5) After 12 monthly weighted average emission rates have been accumulated, for each subsequent calendar month, you must use equation 2 to this paragraph (g)(5) to calculate the 12-month rolling average of the monthly weighted average emission rates for the current month and the previous 11 months. The 12-month rolling weighted average emissions rate for the kilns included in the group must not exceed the emission limits in table 9 to this subpart.

Equation 2 to Paragraph (g)(5)

$$E_{avg} = \frac{\sum_{i=1}^{12} E_i}{12} \quad (Eq.\ 2)$$

Where:

E_{avg} = 12-month rolling average emission rate.

E_i = Monthly weighted average for month "i" calculated as shown in equation 1 to paragraph (g)(3) of this section.

(6) For those kilns that produce multiple types of lime in the HCl subcategory (*e.g.,* high calcium quick lime *and* dolomitic quick lime) you must establish a kiln-specific emission limit using equation 3 to this paragraph (g)(6).

Equation 3 to Paragraph (g)(6)

$$EL_K = \left(P_{QL}\ x\ EL_{QL}\right) + \left(P_{DL}\ x\ EL_{DL}\right) \quad (Eq.\ 3)$$

Where:

EL_K = kiln-specific allowable emission limit, lb/yr.

P_{QL} = Actual 12-month production of high calcium quick lime, ton lime produced/yr.

EL_{QL} =Emission limit for high calcium quick lime taken from table 9 to this subpart, lb HCl/ton lime produced.

P_{DL} = Actual 12-month production of dolomitic quick lime, ton lime produced/yr.

EL_{DL} = Emission limit for dolomitic quick lime taken from table 9 to this subpart, lb HCl/ton lime produced.

(7) For those kilns that produce multiple types of lime in the HCl subcategory, after the close of each calendar month compliance with the kiln-specific emission limit developed in this paragraph (g) would be calculated using equation 4 to this paragraph (g)(7).

Equation 4 to Paragraph (g)(7)

$$E_K = (P_{QL} \, x \, TER_{QL}) + (P_{DL} \, x \, TER_{DL}) \qquad \text{(Eq. 4)}$$

Where:

E_K = Average emission rate for kiln "k", as determined during the last compliance stack test, lb HCl/ton production.

P_{QL} = Actual 12-month production of high calcium quick lime, ton lime produced/yr.

E_{QL} = Average emission rate for kiln "k" while producing high calcium quick lime, as determined during the last compliance stack test.

P_{DL} = Actual 12-month production of dolomitic quick lime, ton lime produced/yr.

E_{DL} = Average emission rate for kiln "k" while producing dolomitic quick lime, as determined during the last compliance stack test, lb HCl/ton production.

(8) For those kilns that produce multiple types of lime in the HCl subcategory, compliance using the emissions averaging provisions is demonstrated when E_K, as determined using equation 4 to paragraph (g)(7) of this section, is less than E_{LK}, as determined using equation 3 to paragraph (g)(6) of this section.

■ 12. Amend § 63.7131 by revising paragraphs (d)(3), (e)(12), (g), and (h)(3) to read as follows:

§ 63.7131 What reports must I submit and when?

* * * * *

(d) * * *

(3) An estimate of the quantity of each regulated pollutant emitted over a non-opacity or VE emission limit, and a description of the method used to estimate the emissions.

(e) * * *

(12) An estimate of the quantity of each regulated pollutant emitted over a non-opacity or VE emission limit, and a description of the method used to estimate the emissions.

* * * * *

(g) If you are required to submit reports following the procedure specified in this paragraph (g), you must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as Confidential Business Information (CBI). Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report, you must submit a complete file, including information claimed to be CBI, to the EPA following the procedures in this paragraph (g). Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (g).

(1) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the Office of Air Quality Planning and Standards (OAQPS) CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and be flagged to the attention of the Lime Manufacturing Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(2) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Lime Manufacturing Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(h) * * *

(3) *Confidential business information (CBI).* (i) The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information submitted under paragraph (a)(1) or (2) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA.

(ii) The file must be generated using the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website.

(iii) Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

(iv) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as

described above, should include clear CBI markings and be flagged to the attention of the Group Leader, Measurement Policy Group. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(v) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Group Leader, Measurement Policy Group. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(vi) All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(vii) You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described in paragraphs (h)(1) and (2) of this section.

* * * * *

§ 63.7142 [Amended]

■ 13. Amend § 63.7142 by:
■ a. Removing ", or" at the end of paragraph (a)(3) and adding a period in its place; and
■ b. Removing paragraph (a)(4).
■ 14. Amend § 63.7143 by:
■ a. Adding, in alphabetical order, definitions for "Dry sorbent injection (DSI)" and "Lime produced";
■ b. Removing the definition for "Lime product"; and
■ c. Adding, in alphabetical order, definition for "TEQ" and "Total Organic HAP".

The additions read as follows:

§ 63.7143 What definitions apply to this subpart?

* * * * *

Dry sorbent injection (DSI) means an add-on air pollution control system in which sorbent (*e.g.,* conventional activated carbon, brominated activated carbon, Trona, hydrated lime, sodium carbonate, etc.) is injected into the flue gas steam upstream of a PM control device to react with and neutralize acid gases (such as SO_2 and HCl) or mercury in the exhaust stream forming a dry powder material that may be removed in a primary or secondary PM control device.

* * * * *

Lime produced refers to the production of lime from the lime kiln consisting of high-calcium quick lime, dolomitic quick lime and/or dead burned dolomitic lime.

* * * * *

TEQ means the international method of expressing toxicity equivalents for dioxins and furans as defined in EPA/100/R–10/005, December 2010 (incorporated by reference—see § 63.14). The TEFs used to determine the dioxin and furan TEQs are listed in table 11 to this subpart.

Total Organic HAP means, for the purposes of this subpart, the sum of the concentrations of compounds of formaldehyde, acetaldehyde, toluene, benzene, m-xylene, p-xylene, o-xylene, styrene, ethyl benzene, and naphthalene as measured by EPA Test Method 320 or Method 18 of appendix A to this part or a combination of these methods, as appropriate. If measurement results for any pollutant are reported as below the method detection level (*e.g.,* laboratory analytical results for one or more sample components are below the method defined analytical detection level), you must use the method detection level as the measured emissions level for that pollutant in calculating the total organic HAP value. The measured result for a multiple component analysis (*e.g.,* analytical values for multiple Method 18 fractions) may include a combination of method detection level data and analytical data reported above the method detection level. The owner or operator of an affected source may request the use of other test methods to make this determination under § 63.7(e)(2)(ii) and (f).

* * * * *

■ 15. Revise tables 1 through 6, 8, and 9 to subpart AAAAA to read as follows:

TABLE 1 TO SUBPART AAAAA OF PART 63—EMISSION LIMITS

[As required in § 63.7090(a), you must meet each emission limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (see table 2 to this subpart for emission limits for kilns and coolers during startup and shutdown).]

For . . .	You must meet the following emission limit
1. All existing lime kilns and their associated lime coolers that did not have a wet scrubber installed and operating prior to January 5, 2004.	PM emissions must not exceed 0.12 pounds per ton of stone feed (lb/tsf).
2. All existing lime kilns and their associated lime coolers that have a wet scrubber, where the scrubber itself was installed and operating prior to January 5, 2004.	PM emissions must not exceed 0.60 lb/tsf. If, at any time after January 5, 2004, the kiln changes to a dry control system, then the PM emission limit in item 1 of this table 1 applies, and the kiln is hereafter ineligible for the PM emission limit in item 2 of this table 1 regardless of the method of PM control.
3. All new lime kilns and their associated lime coolers.	PM emissions must not exceed 0.10 lb/tsf.
4. All existing and new lime kilns and their associated coolers at your LMP, and you choose to average PM emissions, except that any kiln that is allowed to meet the 0.60 lb/tsf PM emission limit is ineligible for averaging.	Weighted average PM emissions calculated according to equation 2 to § 63.7112(f)(1) must not exceed 0.12 lb/tsf (if you are averaging only existing kilns) or 0.10 lb/tsf (if you are averaging only new kilns). If you are averaging existing and new kilns, your weighted average PM emissions must not exceed the weighted average emission limit calculated according to equation 3 to § 63.7112(g), except that no new kiln and its associated cooler considered alone may exceed an average PM emissions limit of 0.10 lb/tsf.
5. New straight rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 1.7 lb/ton of lime produced.
6. Existing straight rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 2.3 lb/ton of lime produced.

TABLE 1 TO SUBPART AAAAA OF PART 63—EMISSION LIMITS—Continued

[As required in § 63.7090(a), you must meet each emission limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (see table 2 to this subpart for emission limits for kilns and coolers during startup and shutdown).]

For . . .	You must meet the following emission limit
7. New straight rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.015 lb/ton of lime produced.
8. Existing straight rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.52 lb/ton of lime produced.
9. All preheater rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 0.39 lb/ton of lime produced.
10. All preheater rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.096 lb/ton of lime produced.
11. All vertical lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 0.39 lb/ton of lime produced.
12. All vertical lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.021 lb/ton of lime produced.
13. All new lime kilns and their associated coolers.	Mercury emissions must not exceed 27 lb/MMton of lime produced.
14. All existing lime kilns and their associated coolers.	Mercury emissions must not exceed 34 lb/MMton of lime produced.
15. All lime kilns and their associated coolers ...	Total Organic HAP emissions must not exceed 2.6 ppmvd @7% O_2.
16. All lime kilns and their associated coolers ...	D/F emissions must not exceed 0.037 ng/dscm (TEQ)[1] @7% O_2.
17. Stack emissions from all PSH operations at a new or existing affected source.	PM emissions must not exceed 0.05 grams per dry standard cubic meter (g/dscm).
18. Stack emissions from all PSH operations at a new or existing affected source, unless the stack emissions are discharged through a wet scrubber control device.	Emissions must not exceed 7 percent opacity.
19. Fugitive emissions from all PSH operations at a new or existing affected source, except as provided by item 8 of this table 1.	Emissions must not exceed 10 percent opacity.
20. All PSH operations at a new or existing affected source enclosed in a building.	All of the individually affected PSH operations must comply with the applicable PM and opacity emission limitations in items 5 through 7 of this table 1, or the building must comply with the following: There must be no VE from the building, except from a vent; and vent emissions must not exceed the stack emissions limitations in items 5 and 6 of this table 1.
21. Each FF that controls emissions from only an individual, enclosed storage bin.	Emissions must not exceed 7 percent opacity.
22. Each set of multiple storage bins at a new or existing affected source, with combined stack emissions.	You must comply with the emission limits in items 5 and 6 of this table 1.

[1] Determined using the toxic equivalency factors listed in Table 2 of Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds (incorporated by reference, see § 63.14). When calculating TEQ, zero may be used for congeners that are below the estimated detection level (EDL).

TABLE 2 TO SUBPART AAAAA OF PART 63—STARTUP AND SHUTDOWN EMISSION LIMITS FOR KILNS AND COOLERS

[As required in § 63.7090(b), on and after the relevant compliance date for your source as specified in § 63.7083(e), you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit	You have demonstrated compliance, if after following the requirements in § 63.7112 . . .
1. All new and existing lime kilns and their associated coolers equipped with an FF or an ESP during each startup.	Emissions must not exceed 15 percent opacity (based on startup period block average).	i. Installed, maintained, calibrated and operated a COMS as required by the general provisions of subpart A of this part and according to PS–1 of appendix B to 40 CFR part 60, except as specified in § 63.7113(g)(2); ii. Collected the COMS data at a frequency of at least once every 15 seconds, determining block averages for each startup period and demonstrating for each startup block period the average opacity does not exceed 15 percent.
2. All existing lime kilns and their associated coolers that have a wet scrubber during each startup.	See item 2.b of table 3 to this subpart for emission limit	See item 1 of table 6 to this subpart for requirements for demonstrating compliance.

TABLE 2 TO SUBPART AAAAA OF PART 63—STARTUP AND SHUTDOWN EMISSION LIMITS FOR KILNS AND COOLERS—Continued

[As required in § 63.7090(b), on and after the relevant compliance date for your source as specified in § 63.7083(e), you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit	You have demonstrated compliance, if after following the requirements in § 63.7112 . . .
3. All new and existing lime kilns and their associated coolers equipped with an FF or an ESP during shutdown.	Emissions must not exceed 15 percent opacity (based on 6-minute average opacity for any 6-minute block period does not exceed 15 percent).	i. Installed, maintained, calibrated and operated a COMS as required by the general provisions of subpart A of this and according to PS–1 of appendix B to 40 CFR part 60, except as specified in § 63.7113(g)(2); ii. Collecting the COMS data at a frequency of at least once every 15 seconds, determining block averages for each 6-minute period and demonstrating for each 6-minute block period the average opacity does not exceed 15 percent.
4. All existing lime kilns and their associated coolers that have a wet scrubber during shutdown.	See item 2.b of table 3 to this subpart for emission limit	See item 1 of table 6 to this subpart for requirements for demonstrating compliance.
5. All new and existing lime kilns that use dry sorbent injection or carbon injection during startup and shutdown.		When a lime kiln is in startup or shutdown (as defined in § 63.7143), the operating limits for sorbent and/or carbon injection do not apply in table 3 to this subpart, and the lime kiln operator shall ensure that sorbent or carbon injection is in operation until the unit is no longer in startup or shutdown. During startup and shutdown, the control device shall be operated in accordance with manufacturer's recommendations or by a site-specific operating procedure for startup and shutdown events.
6. All new and existing lime kilns that use a thermal oxidizer during startup and shutdown.		6. When a lime kiln is in startup or shutdown (as defined in § 63.7143), the temperature limits for a thermal oxidizer in table 3 to this subpart do not apply and the lime kiln operator shall ensure that the thermal oxidizer is in operation until the unit is no longer in startup or shutdown. During startup and shutdown, the control device shall be operated in accordance with manufacturer's recommendations or by a site-specific operating procedure for startup and shutdown events.

TABLE 3 TO SUBPART AAAAA OF PART 63—OPERATING LIMITS

[As required in § 63.7090(b), you must meet each operating limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (See table 2 to this subpart for operating limits during startup and shutdown).]

For . . .	You must . . .
1. Each lime kiln and each lime cooler (if there is a separate exhaust to the atmosphere from the associated lime cooler) equipped with an FF.	Maintain and operate the FF such that the BLDS or PM detector alarm condition does not exist for more than 5 percent of the total operating time in a 6-month period; and comply with the requirements in § 63.7113(d) through (f) and table 6 to this subpart. In lieu of a BLDS or PM detector maintain the FF such that the 6-minute average opacity for any 6-minute block period does not exceed 15 percent; and comply with the requirements in § 63.7113(f) and (g) and table 6 to this subpart.
2. Each lime kiln equipped with a wet scrubber.	a. Maintain the 3-hour block exhaust gas stream pressure drop across the wet scrubber greater than or equal to the greater of the pressure drop operating limit established during the most recent performance test for PM and HCl; and b. Maintain the 3-hour block scrubbing liquid flow rate greater than or equal to the greater of the flow rate operating limit established during the most recent performance test for PM and HCl.
3. Each lime kiln equipped with an electrostatic precipitator.	Install a PM detector and maintain and operate the ESP such that the PM detector alarm is not activated and alarm condition does not exist for more than 5 percent of the total operating time in a 6-month period, and comply with § 63.7113(e); or, maintain the ESP such that the 6-minute average opacity for any 6-minute block period does not exceed 15 percent, and comply with the requirements in § 63.7113(g); and comply with the requirements in § 63.7113(f) and table 6 to this subpart.
4. Each PSH operation subject to a PM limit which uses a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the greater of the pressure drop operating limit established during the performance test for PM and HCl; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the greater of the flow rate operating limit established during the performance test for PM and HCl.
5. All affected sources	Prepare a written OM&M plan; the plan must include the items listed in § 63.7100(d) and the corrective actions to be taken when required in table 6 to this subpart.

TABLE 3 TO SUBPART AAAAA OF PART 63—OPERATING LIMITS—Continued

[As required in § 63.7090(b), you must meet each operating limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (See table 2 to this subpart for operating limits during startup and shutdown).]

For . . .	You must . . .
6. Each emission unit equipped with an add-on air pollution control device.	a. Vent captured emissions through a closed system, except that dilution air may be added to emission streams for the purpose of controlling temperature at the inlet to an FF; and b. Operate each capture/collection system according to the procedures and requirements in the OM&M plan.
7. Each lime kiln equipped with dry sorbent injection.	Maintain the 3-hour block dry sorbent flow rate greater than or equal to the flow rate operating limit established during the most recent performance test for HCl.
8. Each lime kiln equipped with a thermal oxidizer.	Maintain the 3-hour block average combustion chamber temperature greater or equal to the greater of the combustion chamber operating limit established in the most recent performance test for total organic HAP and D/F.
9. Each lime kiln equipped with activated carbon injection.	Maintain the 3-hour block activated carbon injection flow rate greater than or equal to the greater of the flow rate operating limit established during the most recent performance test for total organic HAP, D/F, and mercury.

TABLE 4 TO SUBPART AAAAA OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITS

[As required in § 63.7114, you must demonstrate initial compliance with each emission limitation that applies to you, according to the following table.]

For . . .	For the following emission limit . . .	You have demonstrated initial compliance, if after following the requirements in § 63.7112 . . .
1. All new or existing lime kilns and their associated lime coolers (kilns/coolers).	Emission limits as identified in table 1 to this subpart, or a weighted average calculated according to equation 3 to § 63.7112.	The kiln outlet PM, HCl, mercury, and Total Organic HAP, and dioxins and furans emissions (and if applicable, summed with the separate cooler PM emissions), based on the PM emissions measured using Method 5 or 5D in appendix A to 40 CFR part 60, HCl measured using Method 320 or 321 in appendix A to this part, mercury measured using Method 29 or 30B 5D in appendix A to 40 CFR part 60, and the stone feed rate measurement over the period of initial performance test and Total Organic HAP measured using Method 18 5D in appendix A to 40 CFR part 60 and/or Method 320 in appendix A to this part and dioxins and furans measured using Method 23 in appendix A to 40 CFR part 60, do not exceed the emission limit; if the lime kiln is controlled by an FF or ESP and you are opting to monitor PM emissions with a BLDS or PM detector, you have installed and are operating the monitoring device according to the requirements in § 63.7113(d) or (e), respectively; and if the lime kiln is controlled by an FF or ESP and you are opting to monitor PM emissions using a COMS, you have installed and are operating the COMS according to the requirements in § 63.7113(g). If the kiln is equipped with a dry sorbent injection system, you have a record of the dry sorbent and/or carbon injection flow rate operating parameter over the 3-hour performance test during which emissions did not exceed the emissions limitation. If the kiln is equipped with a thermal oxidizer, you have a record of the combustion chamber operating temperature operating parameter over the 3-hour performance test during which emissions did not exceed the emissions limitation.
2. Stack emissions from all PHS operations at a new or existing affected source.	PM emissions must not exceed 0.05 g/dscm	The outlet PM emissions, based on Method 5 or Method 17 in appendices A–3 and A–6, respectively, to 40 CFR part 60, over the period of the initial performance test do not exceed 0.05 g/dscm; and if the emission unit is controlled with a wet scrubber, you have a record of the scrubber's pressure drop and liquid flow rate operating parameters over the 3-hour performance test during which emissions did not exceed the emissions limitation.

TABLE 4 TO SUBPART AAAAA OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITS—Continued

[As required in § 63.7114, you must demonstrate initial compliance with each emission limitation that applies to you, according to the following table.]

For . . .	For the following emission limit . . .	You have demonstrated initial compliance, if after following the requirements in § 63.7112 . . .
3. Stack emissions from all PSH operations at a new or existing affected source, unless the stack emissions are discharged through a wet scrubber control device.	Emissions must not exceed 7 percent opacity	Each of the thirty 6-minute opacity averages during the initial compliance period, using Method 9 in appendix A–4 to 40 CFR part 60, does not exceed the 7 percent opacity limit. At least thirty 6-minute averages must be obtained.
4. Fugitive emissions from all PSH operations at a new or existing affected source.	Emissions must not exceed 10 percent opacity	Each of the 6-minute opacity averages during the initial compliance period, using Method 9 in appendix A–4 to 40 CFR part 60, does not exceed the 10 percent opacity limit.
5. All PSH operations at a new or existing affected source, enclosed in building.	All of the individually affected PSH operations must comply with the applicable PM and opacity emission limitations for items 2 through 4 of this table 4, or the building must comply with the following: There must be no VE from the building, except from a vent, and vent emissions must not exceed the emission limitations in items 2 and 3 of this table 4.	All the PSH operations enclosed in the building have demonstrated initial compliance according to the applicable requirements for items 2 through 4 of this table 4; or if you are complying with the building emission limitations, there are no VE from the building according to item 18 of table 5 to this subpart and § 63.7112(k), and you demonstrate initial compliance with applicable building vent emissions limitations according to the requirements in items 2 and 3 of this table 4.
6. Each FF that controls emissions from only an individual storage bin.	Emissions must not exceed 7 percent opacity	Each of the ten 6-minute averages during the 1-hour initial compliance period, using Method 9 in appendix A–4 to 40 CFR part 60, does not exceed the 7 percent opacity limit.
7. Each set of multiple storage bins with combined stack emissions.	You must comply with emission limitations in items 2 and 3 of this table 4.	You demonstrate initial compliance according to the requirements in items 2 and 3 of this table 4.
8. All new or existing lime kilns and their associated lime coolers (kilns/coolers).	You must meet the emission limitations for HCl, mercury, total organic HAP, and dioxins and furans in items 5 through 16 of table 1 to this subpart.	The kiln outlet HCl, mercury, total organic HAP, and D/F emissions (and if applicable, summed with the separate cooler emissions), based on the emissions measured according to table 5 to this subpart over the period of the initial performance test do not exceed the applicable limits in items 5 through 16 of table 1 to this subpart. If the emission unit is controlled with a wet scrubber, during the HCl performance test you have a record of the scrubber's pressure drop and liquid flow rate operating parameters over the performance test during which emissions did not exceed the HCl emissions limitation. If the emission unit is controlled with a dry sorbent injection, during the HCl performance test you have a record of the dry sorbent flow rate operating parameter over the HCl performance test during which emissions did not exceed the HCl emissions limitation. If the emission unit is controlled with a thermal oxidizer, during the total organic HAP and D/F performance test(s) you have a record of the temperature operating parameter over the total organic HAP and D/F performance test during which emissions did not exceed the total organic HAP and D/F emissions limitation(s). If the emission unit is controlled with an activated carbon injection, during the total organic HAP, D/F, and mercury performance test(s) you have a record of the temperature operating parameter over the total organic HAP, D/F, and mercury performance test(s) during which emissions did not exceed the total organic HAP, D/F, and mercury emissions limitation(s).

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS

[As required in § 63.7112, you must conduct each performance test in the following table that applies to you.]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Select the location of the sampling ports and the number of traverse points.	Method 1 or 1A of appendix A–1 to 40 CFR part 60; and § 63.6(d)(1)(i).	Sampling sites must be located at the outlet of the control device(s) and prior to any releases to the atmosphere.
2. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Determine velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G in appendices A–1 and A–2 to 40 CFR part 60.	Not applicable.
3. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Conduct gas molecular weight analysis.	Method 3, 3A, or 3B in appendix A–2 to 40 CFR part 60.	You may use manual procedures (but not instrumental procedures) of ASME PTC 19.10–1981—Part 10 (see § 63.14 for availability) as an alternative to using Method 3B.
4. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Measure moisture content of the stack gas.	Method 4 in appendix A–3 to 40 CFR part 60.	Not applicable.
5. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler, and which uses a negative pressure PM control device.	Measure PM emissions	Method 5 in appendix A–3 to 40 CFR part 60.	Conduct the test(s) when the source is operating at representative operating conditions in accordance with § 63.7(e) before the relevant compliance date for your source as specified in §§ 63.7083(e) and 63.7112(b) on and after the relevant compliance date for your source as specified in § 63.7083(e); the minimum sampling volume must be 0.85 dry standard cubic meter (dscm) (30 dry standard cubic foot (dscf)); if there is a separate lime cooler exhaust to the atmosphere, you must conduct the Method 5 test of the cooler exhaust concurrently with the kiln exhaust test.
6. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler, and which uses a positive pressure FF or ESP.	Measure PM emissions	Method 5D in appendix A–3 to 40 CFR part 60.	Conduct the test(s) when the source is operating at representative operating conditions in accordance with § 63.7(e) before the relevant compliance date for your source as specified in §§ 63.7083(e) and 63.7112(b) on and after the relevant compliance date for your source as specified in § 63.7083(e); If there is a separate lime cooler exhaust to the atmosphere, you must conduct the Method 5 or 5D test of the separate cooler exhaust concurrently with the kiln exhaust test. Refer to item 5 of this table for sampling time and volume requirements.
7. Each lime kiln	Determine the mass rate of stone feed to the kiln during the kiln performance test.	Any suitable device	Calibrate and maintain the device according to manufacturer's instructions; the measuring device used must be accurate to within ±5 percent of the mass rate of stone feed over its operating range.
8. Each lime kiln equipped with a wet scrubber.	Establish the operating limit for the average gas stream pressure drop across the wet scrubber during the PM and HCl performance test(s).	Data for the gas stream pressure drop measurement device during the kiln performance test.	The continuous pressure drop measurement device must be accurate within plus or minus 1 percent; you must collect the pressure drop data during the period of the performance test and determine the operating limit according to § 63.7112(j).
9. Each lime kiln equipped with a wet scrubber.	Establish the operating limit for the average liquid flow rate to the scrubber during the PM and HCl performance test(s).	Data from the liquid flow rate measurement device during the kiln performance test.	The continuous scrubbing liquid flow rate measuring device must be accurate within plus or minus 1 percent; you must collect the flow rate data during the period of the performance test and determine the operating limit according to § 63.7112(j).
10. Each lime kiln equipped with a FF or ESP that is monitored with a PM detector.	Have installed and have operating the BLDS or PM detector prior to the PM performance test.	Standard operating procedures incorporated into the OM&M plan.	According to the requirements in § 63.7113(d) or (e), respectively.
11. Each lime kiln equipped with a FF or ESP that is monitored with a COMS.	Have installed and have operating the COMS prior to the performance test.	Standard operating procedures incorporated into the OM&M plan and as required by the general provisions of subpart A of this part and according to PS–1 of appendix B to 40 CFR part 60, except as specified in § 63.7113(g)(2).	According to the requirements in § 63.7113(g).
12. Each stack emission from a PSH operation, vent from a building enclosing a PSH operation, or set of multiple storage bins with combined stack emissions, which is subject to a PM emission limit.	Measure PM emissions	Method 5 or Method 17 in appendices A–3 and A–6 to 40 CFR part 60.	The sample volume must be at least 1.70 dscm (60 dscf); for Method 5, if the gas stream being sampled is at ambient temperature, the sampling probe and filter may be operated without heaters; and if the gas stream is above ambient temperature, the sampling probe and filter may be operated at a temperature high enough, but no higher than 121 °C (250 °F), to prevent water condensation on the filter (Method 17 may be used only with exhaust gas temperatures of not more than 250 °F).

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As required in § 63.7112, you must conduct each performance test in the following table that applies to you.]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
13. Each stack emission from a PSH operation, vent from a building enclosing a PSH operation, or set of multiple storage bins with combined stack emissions, which is subject to an opacity limit.	Conduct opacity observations ..	Method 9 in appendix A–4 to 40 CFR part 60.	The test duration must be for at least 3 hours and you must obtain at least thirty, 6-minute averages.
14. Each stack emissions source from a PSH operation subject to a PM or opacity limit, which uses a wet scrubber.	Establish the average gas stream pressure drop across the wet scrubber during the PM and HCl performance test(s).	Data for the gas stream pressure drop measurement device during the PSH operation stack performance test.	The pressure drop measurement device must be accurate within plus or minus 1 percent; you must collect the pressure drop data during the period of the performance test and determine the operating limit according to § 63.7112(j).
15. Each stack emissions source from a PSH operation subject to a PM or opacity limit, which uses a wet scrubber.	Establish the operating limit for the average liquid flow rate to the scrubber during the PM and HCl performance test(s).	Data from the liquid flow rate measurement device during the PSH operation stack performance test.	The continuous scrubbing liquid flow rate measuring device must be accurate within plus or minus 1 percent; you must collect the flow rate data during the period of the performance test and determine the operating limit according to § 63.7112(j).
16. Each FF that controls emissions from only an individual, enclosed, new or existing storage bin.	Conduct opacity observations ..	Method 9 in appendix A–4 to 40 CFR part 60.	The test duration must be for at least 1 hour and you must obtain ten 6-minute averages.
17. Fugitive emissions from any PSH operation subject to an opacity limit.	Conduct opacity observations ..	Method 9 in appendix A–4 to 40 CFR part 60.	The test duration must be for at least 3 hours, but the 3-hour test may be reduced to 1 hour if, during the first 1-hour period, there are no individual readings greater than 10 percent opacity and there are no more than three readings of 10 percent during the first 1-hour period.
18. Each building enclosing any PSH operation, that is subject to a VE limit.	Conduct VE check	The specifications in § 63.7112(k).	The performance test must be conducted while all affected PSH operations within the building are operating; the performance test for each affected building must be at least 75 minutes, with each side of the building and roof being observed for at least 15 minutes.
19. Each lime kiln	Measure hydrogen chloride	Method 320 or 321 of appendix A to this part or ASTM 6348–12 (Reapproved 2020) [1] [2].	The test duration must be at least one hour. HCl must be used for the analyte spiking. For a positive pressure FF or ESP, determine the number of sampling points per the stratification check procedures of section 8.1.2 of Method 7E in appendix A–4 to 40 CFR part 60 using the sample points determined using the procedures of Section 8 of EPA Method 5D.
20. Each lime kiln	Measure mercury	Method 29 or 30B of appendix A–8 to 40 CFR part 60 or ASTM D6784–16 [2].	For Method 29 and ASTM D6784–16 [2] the test duration must be at least two hours and the sample volume must be at least 1.70 dscm (60 dscf). For Method 30B, the test duration must be at least one hour and the sample volume at least 100 liters. For a positive pressure FF or ESP, use the procedures of Section 8 of EPA Method 5D for sampling points.
21. Each lime kiln	Measure total organic HAP [3]	Method 18 and/or 320 in appendix A to 40 CFR part 60 and/or ASTM D6348–12 (Reapproved 2020) [1].	The test duration must be at least 1 hour. For EPA Method 320 and ASTM D6348–12 (Reapproved 2020), for a positive pressure FF or ESP, determine the number of sampling points per the stratification check procedures of section 8.1.2 of Method 7E using the sample points determined using the procedures of Section 8 of EPA Method 5D.
22. Each lime kiln	Measure dioxins/furans	Method 23 in appendix A–7 to 40 CFR part 60.	The test duration must be at least 3 hours and the must be at least 3 dscm (106 dscf). For a positive pressure FF or ESP, use the procedures of Section 8 of EPA Method 5D for sampling points.
23. Each lime kiln equipped with dry sorbent injection.	Establish the operating limit for the dry sorbent flow rate during the HCl performance test.	Data for the dry sorbent flow rate device during the HCl performance test.	The flow monitor must meet the criteria in § 63.7113(h); you must collect the dry sorbent flow rate data during the period of the HCl performance test and determine the operating limit according to § 63.7112(j).
24. Each lime kiln equipped with a thermal oxidizer.	Establish the operating limit for the combustion chamber temperature during the total organic HAP and D/F performance test(s).	Data for the temperature device during the total organic HAP and D/F performance test(s).	The temperature device must meet the criteria in § 63.7113(i); you must collect the temperature data during the period of the total organic HAP and D/F performance test(s) and determine the operating limit according to § 63.7112(j).
25. Each lime kiln equipped with activated carbon injection.	Establish the operating limit for the combustion chamber temperature during the total organic HAP, D/F, and mercury performance test(s).	Data for the activated carbon flow rate device during the total organic HAP, D/F, and mercury performance test(s).	The flow monitor must meet the criteria in § 63.7113(h); you must collect the activated carbon flow rate data during the period of the total organic HAP, D/F, and mercury performance test(s)and determine the operating limit according to § 63.7112(j).

[1] When using ASTM D6348–12 (Reapproved 2020) the test plan preparation and implementation in the Annexes to ASTM D6348–12 (Reapproved 2020), annexes A1 through A8 are mandatory. In ASTM D6348–12 (Reapproved 2020) Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be 70% ≥ R ≤ 130%. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound according to: Reported Results = ((Measured Concentration in Stack))/(%R) × 100.

[2] Incorporated by reference, see § 63.14.

[3] Total Organic HAP is the sum of the concentrations of compounds of formaldehyde, acetaldehyde, toluene, benzene, m-xylene, p-xylene, o-xylene, styrene, ethyl benzene, and naphthalene.

TABLE 6 TO SUBPART AAAAA OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS

[As required in § 63.7121, you must demonstrate continuous compliance with each operating limit listed in Table 3 to subpart AAAAA that applies to you, according to the following table.]

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
1. Each lime kiln controlled by a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test.	Collecting the wet scrubber operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintaining the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test (the continuous scrubbing liquid flow rate measuring device must be accurate within ±1% and the continuous pressure drop measurement device must be accurate within ±1%).
2. Each lime kiln or lime cooler equipped with a FF and using a BLDS, and each lime kiln equipped with an ESP or FF using a PM detector.	a. Maintain and operate the FF or ESP such that the bag leak or PM detector alarm, is not activated and alarm condition does not exist for more than 5 percent of the total operating time in each 6-month period.	i. Operating the FF or ESP so that the alarm on the bag leak or PM detection system is not activated and an alarm condition does not exist for more than 5 percent of the total operating time in each 6-month reporting period; and continuously recording the output from the BLD or PM detection system; and ii. Each time the alarm sounds and the owner or operator initiates corrective actions within 1 hour of the alarm, 1 hour of alarm time will be counted (if the owner or operator takes longer than 1 hour to initiate corrective actions, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate corrective actions); if inspection of the FF or ESP system demonstrates that no corrective actions are necessary, no alarm time will be counted.
3. Each stack emissions source from a PSH operation subject to an opacity limit, which is controlled by a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test.	Collecting the wet scrubber operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintaining the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test (the continuous scrubbing liquid flow rate measuring device must be accurate within ±1% and the continuous pressure drop measurement device must be accurate within ±1%).
4. For each lime kiln or lime cooler equipped with a FF or an ESP that uses a COMS as the monitoring device.	a. Maintain and operate the FF or ESP such that the average opacity for any 6-minute block period does not exceed 15 percent.	i. Installing, maintaining, calibrating and operating a COMS as required by the general provisions of subpart A of this part and according to PS–1 of appendix B to 40 CFR part 60, except as specified in § 63.7113(g)(2); and ii. Collecting the COMS data at a frequency of at least once every 15 seconds, determining block averages for each 6-minute period and demonstrating for each 6-minute block period the average opacity does not exceed 15 percent.
7. Each lime kiln equipped with dry sorbent and/or activated carbon injection.	Maintain the 3-hour block dry sorbent and/or activated carbon flow rate greater than or equal to the stack flow rate operating limit established during the most recent performance test..	Collecting the dry sorbent and/or activated carbon injection operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average injection flow rate greater than or equal to the injection flow rate operating limit established during the performance test.
8. Each lime kiln equipped with a thermal oxidizer.	Maintain the 3-hour block average combustion chamber temperature greater or equal to the combustion chamber operating limit established in the most recent performance test.	Collecting the thermal oxidizer operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average combustion chamber temperature greater than or equal to the combustion chamber operating limit established during the performance test.

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TABLE 8 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR REPORTS

[As required in § 63.7131, you must submit each report in the following table that applies to you.]

You must submit a . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. If there are no deviations from any emission limitations (emission limit, operating limit, opacity limit, and VE limit) that applies to you, a statement that there were no deviations from the emission limitations during the reporting period;	Semiannually according to the requirements in § 63.7131(b).
	b. If there were no periods during which the CMS, including any operating parameter monitoring system, was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS was out-of-control during the reporting period;	Semiannually according to the requirements in § 63.7131(b).
	c. If you have a deviation from any emission limitation (emission limit, operating limit, opacity limit, and VE limit) during the reporting period, the report must contain the information in § 63.7131(d);	Semiannually according to the requirements in § 63.7131(b).
	d. If there were periods during which the CMS, including any operating parameter monitoring system, was out-of-control, as specified in § 63.8(c)(7), the report must contain the information in § 63.7131(e); and	Semiannually according to the requirements in § 63.7131(b).
	e. Before the relevant compliance date for your source as specified in § 63.7083(e), if you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i). On and after the relevant compliance date for your source as specified in § 63.7083(e), if you had a startup, shutdown or malfunction during the reporting period and you failed to meet an applicable standard, the compliance report must include the information in § 63.7131(c)(3).	Semiannually according to the requirements in § 63.7131(b).
2. Before the relevant compliance date for your source as specified in § 63.7083(e), an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the SSMP.
3. Before the relevant compliance date for your source as specified in § 63.7083(e), an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority. See § 63.10(d)(5)(ii).
4. Performance Test Report	The information required in § 63.7(g) and § 63.7112(h).	According to the requirements of § 63.7131.

TABLE 9 TO SUBPART AAAAA OF PART 63—EMISSIONS AVERAGING EMISSION LIMITS

[As required in § 63.7090(d), if you are using emissions averaging for either HCl emission limits or mercury emission limits you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit
1. Existing straight rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 2.1 lb/ton of lime produced.
2. Existing straight rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.047 lb/ton of lime produced.
3. Existing preheater rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 0.36 lb/ton of lime produced.
4. Existing preheater rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.087 lb/ton of lime produced.
5. All vertical lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 0.36 lb/ton of lime produced.
6. All vertical lime kilns and their associated coolers producing high-calcium quick lime	HCl emissions must not exceed 0.019 lb/ton of lime produced.

TABLE 9 TO SUBPART AAAAA OF PART 63—EMISSIONS AVERAGING EMISSION LIMITS—Continued

[As required in § 63.7090(d), if you are using emissions averaging for either HCl emission limits or mercury emission limits you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit
7. Existing lime kilns and their associated coolers	Mercury emissions must not exceed 31 lb/MMton of lime produced.

■ 16. Add tables 10 and 11 to subpart AAAAA to read as follows:

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.1(a)(1) through (4)	Applicability	Yes.	
§ 63.1(a)(5)		No.	
§ 63.1(a)(6)	Applicability	Yes.	
§ 63.1(a)(7) through (9)		No.	
§ 63.1(a)(10) through (14)	Applicability	Yes.	
§ 63.1(b)(1)	Initial Applicability Determination	Yes	§§ 63.7081 and 63.7142 specify additional applicability determination requirements.
§ 63.1(b)(2)		No.	
§ 63.1(b)(3)	Initial Applicability Determination	Yes.	
§ 63.1(c)(1)	Applicability After Standard Established.	Yes.	
§ 63.1(c)(2)	Permit Requirements	No	Area sources not subject to this subpart, except all sources must make initial applicability determination.
§ 63.1(c)(3) and (4)		No.	
§ 63.1(c)(5)	Area Source Becomes Major	Yes.	
§ 63.1(c)(6)	Reclassification	Yes.	
§ 63.1(d)		No.	
§ 63.1(e)	Applicability of Permit Program	Yes.	
§ 63.2	Definitions	Yes	Additional definitions in § 63.7143.
§ 63.3(a) through (c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1) and (2)	Prohibited Activities	Yes.	
§ 63.4(a)(3) through (5)		No.	
§ 63.4(b) and (c)	Circumvention, Severability	Yes.	
§ 63.5(a)(1) and (2)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)	Compliance Dates	Yes.	
§ 63.5(b)(2)		No.	
§ 63.5(b)(3) and (4)	Construction Approval, Applicability.	Yes.	
§ 63.5(b)(5)		No.	
§ 63.5(b)(6)	Applicability	Yes.	
§ 63.5(c)		No.	
§ 63.5(d)(1) through (4)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(f)(1) and (2)	Approval of Construction/Reconstruction.	Yes.	
§ 63.6(a)	Compliance for Standards and Maintenance.	Yes.	
§ 63.6(b)(1) through (5)	Compliance Dates	Yes.	
§ 63.6(b)(6)		No.	
§ 63.6(b)(7)	Compliance Dates	Yes.	
§ 63.6(c)(1) and (2)	Compliance Dates	Yes.	
§ 63.6(c)(3) and (4)		No.	
§ 63.6(c)(5)	Compliance Dates	Yes.	
§ 63.6(d)		No.	
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for general duty requirement.

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Yes.	
§ 63.6(e)(2)		No	[Reserved].
§ 63.6(e)(3)	Startup, Shutdown Malfunction Plan.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), the OM&M plan must address periods of startup and shutdown. See § 63.7100(d).
§ 63.6(f)(1)	SSM exemption	No	See § 63.7100. For periods of startup and shutdown, see § 63.7090(c).
§ 63.6(f)(2) and (3)	Methods for Determining Compliance.	Yes.	
§ 63.6(g)(1) through (3)	Alternative Standard	Yes.	
§ 63.6(h)(1)	SSM exemption	No	See § 63.7100. For periods of startup and shutdown, see § 63.7090(c).
§ 63.6(h)(2)	Methods for Determining Compliance.	Yes.	
§ 63.6(h)(3)		No.	
§ 63.6(h)(4) through (h)(5)(i)	Opacity/VE Standards	Yes	This requirement only applies to opacity and VE performance checks required in table 5 to this subpart.
§ 63.6(h)(5)(ii) and (iii)	Opacity/VE Standards	No	Test durations are specified in this subpart; this subpart takes precedence.
§ 63.6(h)(5)(iv)	Opacity/VE Standards	No.	
§ 63.6(h)(5)(v)	Opacity/VE Standards	Yes.	
§ 63.6(h)(6)	Opacity/VE Standards	Yes.	
§ 63.6(h)(7)	COM Use	Yes.	
§ 63.6(h)(8)	Compliance with Opacity and VE	Yes.	
§ 63.6(h)(9)	Adjustment of Opacity Limit	Yes.	
§ 63.6(i)(1) through (14)	Extension of Compliance	Yes.	
§ 63.6(i)(15)		No.	
§ 63.6(i)(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Exemption from Compliance	Yes.	
§ 63.7(a)(1) through (3)	Performance Testing Requirements.	Yes	§ 63.7110 specifies deadlines; § 63.7112 has additional specific requirements.
§ 63.7(b)	Notification	Yes.	
§ 63.7(c)	Quality Assurance/Test Plan	Yes.	
§ 63.7(d)	Testing Facilities	Yes.	
§ 63.7(e)(1)	Conduct of Tests	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7112(b).
§ 63.7(e)(2) through (4)	Conduct of Tests	Yes.	
§ 63.7(f)	Alternative Test Method	Yes.	
§ 63.7(g)	Data Analysis	Yes.	
§ 63.7(h)	Waiver of Tests	Yes.	
§ 63.8(a)(1)	Monitoring Requirements	Yes	See § 63.7113.
§ 63.8(a)(2)	Monitoring	Yes.	
§ 63.8(a)(3)		No.	
§ 63.8(a)(4)	Monitoring	No	Flares not applicable.
§ 63.8(b)(1) through (3)	Conduct of Monitoring	Yes.	

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.8(c)(1)(i)	CMS Operation/Maintenance	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for OM&M requirements.
§ 63.8(c)(1)(ii)	CMS Spare Parts	Yes.	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), no longer required.
§ 63.8(c)(2) and (3)	CMS Operation/Maintenance	Yes.	
§ 63.8(c)(4)	CMS Requirements	No	See § 63.7121.
§ 63.8(c)(4)(i) and (ii)	Cycle Time for COM and CEMS	Yes	No CEMS are required under this subpart; see § 63.7113 for CPMS requirements.
§ 63.8(c)(5)	Minimum COM procedures	Yes	COM not required.
§ 63.8(c)(6)	CMS Requirements	No	See § 63.7113.
§ 63.8(c)(7) and (8)	CMS Requirements	Yes.	
§ 63.8(d)(1) and (2)	Quality Control	Yes	See also § 63.7113.
§ 63.8(d)(3)	Quality Control	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.8(e)	Performance Evaluation for CMS	Yes	See also § 63.7113.
§ 63.8(f)(1) through (5)	Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test for CEMS.	No	No CEMS required in this subpart.
§ 63.8(g)(1) through (5)	Data Reduction; Data That Cannot Be Used.	No	See data reduction requirements in §§ 63.7120 and 63.7121.
§ 63.9(a)	Notification Requirements	Yes	See § 63.7130.
§ 63.9(b)	Initial Notifications	Yes.	
§ 63.9(c)	Request for Compliance Extension.	Yes.	
§ 63.9(d)	New Source Notification for Special Compliance Requirements.	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes.	
§ 63.9(f)	Notification of VE/Opacity Test	Yes	This requirement only applies to opacity and VE performance tests required in table 5 to this subpart. Notification not required for VE/opacity test under table 7 to this subpart.
§ 63.9(g)	Additional CMS Notifications	No	Not required for operating parameter monitoring.
§ 63.9(h)(1) through (3)	Notification of Compliance Status	Yes.	
§ 63.9(h)(4)		No.	
§ 63.9(h)(5) and (6)	Notification of Compliance Status	Yes.	
§ 63.9(i)	Adjustment of Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
§ 63.10(a)	Recordkeeping/Reporting General Requirements.	Yes	See §§ 63.7131 through 63.7133.
§ 63.10(b)(1)	Records	Yes.	
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7132 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Yes.	
§ 63.10(b)(2)(iv) and (v)	Actions Taken to Minimize Emissions During SSM.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for OM&M requirements.
§ 63.10(b)(2)(vi) through (xii)	Recordkeeping for CMS	Yes.	
§ 63.10(b)(2)(xiii)	Records for Relative Accuracy Test.	No.	
§ 63.10(b)(2)(xiv)	Records for Notification	Yes.	
§ 63.10(b)(3)	Applicability Determinations	Yes.	
§ 63.10(c)	Additional CMS Recordkeeping	No	See § 63.7132.
§ 63.10(d)(1)	General Reporting Requirements	Yes.	
§ 63.10(d)(2)	Performance Test Results	Yes.	
§ 63.10(d)(3)	Opacity or VE Observations	Yes	For the periodic monitoring requirements in table 7 to this subpart, report according to § 63.10(d)(3) only if VE observed and subsequent visual opacity test is required.
§ 63.10(d)(4)	Progress Reports	Yes.	
§ 63.10(d)(5)(i)	Periodic Startup, Shutdown, Malfunction Reports.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7131 for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Immediate Startup, Shutdown, Malfunction Reports.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.10(e)	Additional CMS Reports	No	See specific requirements in this subpart, see § 63.7131.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Yes.	
§ 63.11(a) and (b)	Control Device and Work Practice Requirements.	No	Flares not applicable.
§ 63.12(a) through (c)	State Authority and Delegations	Yes.	
§ 63.13(a) through (c)	State/Regional Addresses	Yes.	
§ 63.14(a) and (b)	Incorporation by Reference	No.	
§ 63.15(a) and (b)	Availability of Information and Confidentiality.	Yes.	
§ 63.16	Performance Track Provisions	Yes.	

TABLE 11 TO SUBPART AAAAA OF PART 63—TOXICITY EQUIVALENCE FACTORS (TEFS) FOR HUMAN HEALTH RISK ASSESSMENT OF POLYCHLORINATED DIBENZO-P-DIOXINS, DIBENZOFURANS, AND DIOXIN-LIKE POLYCHLORINATED BIPHENYLS

Dioxin/Furan	2005 TEFs [1]
2,3,7,8–TCDD	1
1,2,3,7,8-PeCDD	1
1,2,3,4,7,8-HxCDD	0.1

TABLE 11 TO SUBPART AAAAA OF PART 63—TOXICITY EQUIVALENCE FACTORS (TEFS) FOR HUMAN HEALTH RISK ASSESSMENT OF POLYCHLORINATED DIBENZO-P-DIOXINS, DIBENZOFURANS, AND DIOXIN-LIKE POLYCHLORINATED BIPHENYLS—Continued

Dioxin/Furan	2005 TEFs [1]
1,2,3,6,7,8-HxCDD	0.1
1,2,3,7,8,9-HxCDD	0.1
1,2,3,4,6,7,8-HpCDD	0.01
OCDD	0.0003
2,3,7,8–TCDF	0.1
1,2,3,7,8-PeCDF	0.03
2,3,4,7,8-PeCDF	0.3
1,2,3,4,7,8-HxCDF	0.1
1,2,3,6,7,8-HxCDF	0.1
1,2,3,7,8,9-HxCDF	0.1
2,3,4,6,7,8-HxCDF	0.1
1,2,3,4,6,7,8-HpCDF	0.01
1,2,3,4,7,8,9-HpCDF	0.01
OCDF	0.0003

[1] EPA/100/R–10/005, "Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds", December 2010. (See § 63.14 for availability.)

[FR Doc. 2024–14692 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[EPA–HQ–OPP–2022–0133; FRL–8528–04–OCSPP]

RIN 2070–AK92

Notification of Submission to the Secretary of Agriculture; Draft Final Rule; Pesticides; Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretary of Agriculture.

SUMMARY: This document notifies the public as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA has forwarded a draft final rule to the U.S. Department of Agriculture (USDA) entitled "Pesticides; Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments." The draft regulatory document is not available to the public until after it has been signed and made available to the public by EPA.

DATES: See Unit I. under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2022–0133, is available at *https://www.regulations.gov.* That docket contains historical information and this **Federal Register** document; it does not contain the draft final rule.

FOR FURTHER INFORMATION CONTACT: Carolyn Schroeder, Pesticide Re-Evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2376; email address: *schroeder.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

FIFRA section 25(a)(2)(B) requires the EPA to provide the USDA with a copy of any draft final rule at least 30 days before signing it in final form for publication in the **Federal Register**. The draft final rule is not available to the public until after it has been signed by EPA. If the Secretary of USDA comments in writing regarding the draft final rule within 15 days after receiving it, the EPA Administrator must include the comments of the USDA Secretary, if requested by the Secretary, and the EPA Administrator's response to those comments with the final rule that publishes in the **Federal Register**. If the Secretary of USDA does not comment in writing within 15 days after receiving the draft final rule, then the EPA Administrator may sign the final rule for publication in the **Federal Register** any time after the 15-day period.

II. Do any statutory and Executive Order reviews apply to this notification?

No. This document is merely a notification of submission to the Secretary of USDA. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Part 170

Environmental protection, Pesticides, Agricultural worker, Pesticide handler, Employer, Farms, Forests, Nurseries, Greenhouses, Worker protection standard.

Dated: July 9, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2024–15447 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0700; FRL–10420–01–OCSPP]

Trichoderma atroviride Strain K5 NRRL B–50520; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Trichoderma atroviride* strain K5 NRRL B–50520 in or on all food commodities when used in accordance with label directions and good agricultural practices. Agrauxine Corp., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the exemption from a requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Trichoderma atroviride* strain K5 NRRL B–50520 under FFDCA when used in

Air Quality Management District: Rule 472.

* * * * *

(37) * * *

(i) * * *

(E) Previously approved on June 14, 1978, in paragraph (c)(37)(i)(A) of this section and now deleted with replacement in paragraph (c)(621)(i)(A)(*1*) of this section for implementation in the Mojave Desert Air Quality Management District: Rule 468.

(F) Previously approved on June 14, 1978, in paragraph (c)(37)(i)(A) of this section and now deleted with replacement in paragraph (c)(621)(i)(A)(*2*) of this section for implementation in the Mojave Desert Air Quality Management District: Rule 469.

* * * * *

(39) * * *

(ii) * * *

(M) Previously approved on September 8, 1978, in paragraph (c)(39)(ii)(C) of this section and now deleted with replacement in paragraph (c)(620)(i)(A)(*1*) of this section: Rule 407.

(N) Previously approved on September 8, 1978, in paragraph (c)(39)(ii)(C) of this section and now deleted with replacement in paragraph (c)(610)(i)(D)(*3*) of this section: Rule 408.

(O) Previously approved on September 8, 1978, in paragraph (c)(39)(ii)(C) of this section and now deleted with replacement in paragraph (c)(610)(i)(D)(*4*) of this section: Rule 409.

(P) Previously approved on September 8, 1978, in paragraph (c)(39)(ii)(C) of this section and now deleted with replacement in paragraph (c)(610)(i)(D)(*5*) of this section: Rule 443.

(Q) Previously approved on September 8, 1978, in paragraph (c)(39)(ii)(C) of this section and now deleted with replacement in paragraph (c)(621)(i)(A)(*1*) of this section: Rule 468.

(R) Previously approved on September 8, 1978, in paragraph (c)(39)(ii)(C) of this section and now deleted with replacement in paragraph (c)(621)(i)(A)(*2*) of this section: Rule 469.

(S) Previously approved on September 8, 1978, in paragraph (c)(39)(ii)(C) of this section and now deleted with replacement in paragraph (c)(610)(i)(D)(*6*) of this section: Rule 472.

* * * * *

(42) * * *

(xiii) * * *

(E) Previously approved on December 21, 1978, in paragraph (c)(42)(xiii)(A) of this section and now deleted with replacement in paragraph (c)(610)(i)(D)(*1*) of this section: Rule 404.

(F) Previously approved on December 21, 1978, in paragraph (c)(42)(xiii)(A) of this section and now deleted with replacement in paragraph (c)(610)(i)(D)(*2*) of this section: Rule 405.

* * * * *

(179) * * *

(i) * * *

(B) * * *

(*4*) Previously approved on November 27, 1990, in paragraph (c)(179)(i)(B)(*1*) of this section and now deleted with replacement in paragraph (c)(622)(i)(A)(*1*) of this section: Rule 104, amended on December 19, 1988.

* * * * *

(610) * * *

(i) * * *

(D) Mojave Desert Air Quality Management District.

(*1*) Rule 404, ''Particulate Matter—Concentration,'' readopted on July 25, 1977.

(*2*) Rule 405, ''Solid Particulate Matter—Weight,'' readopted on July 25, 1977.

(*3*) Rule 408, ''Circumvention,'' readopted on July 25, 1977.

(*4*) Rule 409, ''Combustion Contaminants,'' readopted on July 25, 1977.

(*5*) Rule 443, ''Labeling of Solvents,'' readopted on July 25, 1977.

(*6*) Rule 472, ''Reduction of Animal Matter,'' readopted on July 25, 1977.

* * * * *

(620) The following regulations were submitted on September 23, 2022, by the Governor's designee.

(i*) Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(*1*) Rule 407, ''Liquid and Gaseous Air Contaminants,'' readopted on July 25, 1977.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

(621) The following regulations were submitted electronically on November 30, 2022, by the Governor's designee as an attachment to a letter dated November 22, 2022.

(i) *Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(*1*) Rule 468, ''Sulfur Recovery Units,'' readopted on July 25, 1977.

(*2*) Rule 469, ''Sulfur Acid Units,'' readopted on July 25, 1977.

(B) [Reserved]

(ii) [Reserved]

(622) The following regulations were submitted on October 13, 2023, by the Governor's designee.

(i*) Incorporation by reference.* (A) Mojave Desert Air Quality Management District.

(*1*) Rule 104, ''Reporting of Source Test Data and Analyses,'' amended on December 19, 1988.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

* * * * *

[FR Doc. 2024–27627 Filed 12–3–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2017–0015; FRL–5948.2–02–OAR]

RIN 2060–AV59

National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Technology Review; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: The Environmental Protection Agency (EPA) is making corrections to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants (Lime Manufacturing NESHAP) technology review final rule that appeared in the **Federal Register** on July 16, 2024. Following publication of this final rule, the EPA discovered inadvertent errors in the regulatory text and is correcting them in this action.

DATES: The final rule is effective on December 4, 2024.

ADDRESSES: The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2017–0015. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/.*

FOR FURTHER INFORMATION CONTACT: Mr. Brian Storey, Mail Drop: D243–04, 109

T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–1103; and email address: *storey.brian@epa.gov.*

Preamble acronyms and abbreviations. Throughout this document the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

APA Administrative Procedure Act
BTF beyond the floor
CAA Clean Air Act
CFR Code of Federal Regulations
EPA Environmental Protection Agency
FR Federal Register
HAP hazardous air pollutants
MACT Maximum Achievable Control Technology
NAICS North American Industry Classification System
NESHAP National Emission Standards for Hazardous Air Pollutants

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

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Statutory Authority
D. Judicial Review and Administrative Reconsideration
II. Summary of Final Action
III. Summary of Cost, Environmental, and Economic Impacts
IV. Rulemaking Procedures
V. Statutory and Executive Order Reviews

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially affected by this action are shown in table 1 of this preamble.

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

Source category and NESHAP	NAICS code [1]
Lime Manufacturing	32741, 33111, 3314.

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

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

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

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

C. Statutory Authority

For major sources, the Clean Air Act (CAA) section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of hazardous air pollutants (HAP) achievable after considering cost, energy requirements, and non-air quality health and environmental impacts. These standards are commonly referred to as Maximum Achievable Control Technology (MACT) standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT "floor." The EPA must also consider control options that are more stringent than the floor, commonly referred to as "beyond-the-floor" (BTF) standards. Costs may not be considered when setting the MACT floor and may only be considered when determining whether BTF standards are appropriate.

D. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by February 3, 2025.

II. Summary of Final Action

The EPA finalized MACT standards for the lime manufacturing industry under CAA section 112(d) for 4 previously unregulated pollutants on July 16, 2024. The 4 pollutants regulated in the final rule included hydrogen chloride, mercury, total organic HAP, and dioxin/furans. Following publication of this final rule, the EPA discovered errors in the regulatory text and is correcting them in this action.

Specifically, the EPA is revising the Lime Manufacturing NESHAP July 16, 2024, final rule to correctly reference 40 CFR 63.7083(g). In the July 16, 2024, final rule amendatory text, 40 CFR 63.7083 was revised to include new compliance dates associated with the July 16, 2024, final rule. These additions were added to the section as paragraphs (c) and (d). The additions caused 40 CFR 63.7083(e) to be redesignated as 63.7083(g) in the July 16, 2024, final rule amendatory text. This action revises all applicable references in the rule that previously referenced 40 CFR 63.7083(e) to correctly reference 40 CFR 63.7083(g).

Additionally, the EPA is correcting 40 CFR 63.7083(h)(2) to correct the compliance date of the hydrogen chloride, mercury, total organic HAP, and dioxin/furan emissions limitations for new sources. The July 16, 2024, final rule inadvertently set the compliance date for these sources as the date the final rule was published in the **Federal Register** (89 FR 57738, July 16, 2024). This date is being revised to correctly identify the compliance date for these sources as January 5, 2023, or the date of initial startup, whichever is later. This date represents the date that these sources must be in compliance, and is based on the date the proposed amendments were published in the **Federal Register** (88 FR 805, January 5, 2023).

Lastly, the EPA is correcting 40 CFR 63.7112(o), which inadvertently referenced "total hydrocarbons" in the introductory paragraph and equation 5 of paragraph (o) in the July 16, 2024, final rule. The EPA is correcting these errors by revising 40 CFR 63.7112(o) to reference "total organic HAP" instead.

These corrections make the regulatory text consistent with what the preamble to the final rule describes. The EPA finds that there is good cause for finalizing these technical corrections without public notice or hearing, as

explained in greater detail in section IV of this preamble. Notice and comment procedures are unnecessary here because the public is already aware of this action and its contents. See 5 U.S.C. 553(b)(B).

III. Summary of Cost, Environmental, and Economic Impacts

This action will have no cost, environmental, or economic impacts beyond the impacts presented in the July 16, 2024, Lime Manufacturing NESHAP final rule (89 FR 57738).

IV. Rulemaking Procedures

The EPA's authority for the rulemaking procedures followed in this action is provided by the Administrative Procedure Act (APA), 5 U.S.C. 553. In general, an agency issuing a rule must provide prior notice and an opportunity for public comment, but APA section 553(b)(B) includes an exemption from notice-and-comment requirements ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' This action is being issued without prior notice or opportunity for public comment because the EPA finds that the APA ''good cause'' exemption from notice-and-comment requirements applies here.

Following notice-and-comment procedures is unnecessary for this action. This action corrects technical errors, correctly referencing 40 CFR 63.7083(g), correctly referencing the compliance date for new or reconstructed sources in 40 CFR 63.7083(h)(2) and correcting the references to ''total hydrocarbons'' in the text and in equation 5 of 40 CFR 63.7112(o) in the July 16, 2024, rule. It is critical to timely correct the identified error to avoid confusion.

This action is effective immediately upon publication. The APA typically requires publication of a final rule to precede its effective date by at least 30 days unless, as relevant here, the agency finds good cause to make the rule effective sooner. APA section 553(b)(B). Under APA section 553(d), these technical corrections both necessary and beneficial to regulated entities in understanding and complying with the final rule's requirements. Further, because this rule does not impose any new regulatory requirements, the regulated community does not need time to prepare for it to come into effect. See *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (D.C. Cir. 1996) (in determining whether good cause exists to make a rule immediately effective, 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'').

Good cause exists for this rule to be made immediately effective. The EPA has balanced the necessity for immediate implementation against the benefits of delaying implementation. Because this rule makes technical corrections to a rule that has already been promulgated, the public is aware of the content of the rule. Making the technical corrections effective immediately will make the regulatory text consistent with what the proposed rule and the preamble to the final rule have described.

V. Statutory and Executive Order Reviews

For a complete discussion of all the statutes, executive orders and administrative requirements applicable to this action, see the final rule published in the Rules and Regulations section of the **Federal Register** (89 FR 57738).

List of Subjects in 40 CFR Part 63

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

Michael S. Regan,

Administrator.

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

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

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

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

Subpart AAAAA—National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants

■ 2. Amend § 63.7083 by revising paragraph (h)(2) to read as follows:

§ 63.7083 When do I have to comply with this subpart?

* * * * *

(h) * * *

(2) If your affected source commenced construction or reconstruction after July 16, 2024, then the compliance date for HCl, mercury, total organic HAP, and D/F emissions limitations is January 5, 2023, or the date of initial startup, whichever is later.

■ 3. Amend § 63.7090 by revising paragraph (c) to read as follows:

§ 63.7090 What emission limitations must I meet?

* * * * *

(c) On or after the relevant compliance date for your source as specified in § 63.7083(g), you must meet each startup and shutdown period emission limit in table 2 to this subpart that applies to you.

* * * * *

■ 4. Revise § 63.7100 to read as follows:

§ 63.7100 What are my general requirements for complying with this subpart?

(a) Prior to the relevant compliance date for your source as specified in § 63.7083(g), you must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction. On and after the relevant compliance date for your source as specified in § 63.7083(g), you must be in compliance with the applicable emission limitations (including operating limits) at all times. You may operate outside of the established operating parameter limit(s) during performance tests in order to establish new operating limits.

(b) Prior to the relevant compliance date for your source as specified in § 63.7083(g), you must be in compliance with the opacity and visible emission (VE) limits in this subpart at all times, except during periods of startup, shutdown, and malfunction. On and after the relevant compliance date for your source as specified in § 63.7083(g), you must be in compliance with the applicable opacity and VE limits at all times.

(c) Prior to the relevant compliance date for your source as specified in § 63.7083(g), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). On and after the relevant compliance date for your source as specified in § 63.7083(g), you must always operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require

the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(d) You must prepare and implement for each LMP, a written operations, maintenance, and monitoring (OM&M) plan. You must submit the plan to the applicable permitting authority for review and approval as part of the application for a 40 CFR part 70 or 40 CFR part 71 permit. Any subsequent changes to the plan must be submitted to the applicable permitting authority for review and approval. Pending approval by the applicable permitting authority of an initial or amended plan, you must comply with the provisions of the submitted plan. Each plan must contain the following information:

(1) Process and control device parameters to be monitored to determine compliance, along with established operating limits or ranges, as applicable, for each emission unit.

(2) A monitoring schedule for each emission unit.

(3) Procedures for the proper operation and maintenance of each emission unit and each air pollution control device used to meet the applicable emission limitations and operating limits in tables 1, 2, and 3 to this subpart, respectively. On and after the relevant compliance date for your source as specified in § 63.7083(g), your OM&M plan must address periods of startup and shutdown.

(4) Procedures for the proper installation, operation, and maintenance of monitoring devices or systems used to determine compliance, including:

(i) Calibration and certification of accuracy of each monitoring device;

(ii) Performance and equipment specifications for the sample interface, parametric signal analyzer, and the data collection and reduction systems;

(iii) Prior to the relevant compliance date for your source as specified in § 63.7083(g), ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1)(i) and (ii), (c)(3), and (c)(4)(ii). On and after the relevant compliance date for your source as specified in § 63.7083(g), ongoing operation and maintenance procedures in accordance with the general requirements of paragraph (c) of this section and §§ 63.8(c)(1)(ii), (c)(3), and (c)(4)(ii); and

(iv) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d).

(5) Procedures for monitoring process and control device parameters.

(6) Corrective actions to be taken when process or operating parameters or add-on control device parameters deviate from the operating limits specified in table 3 to this subpart, including:

(i) Procedures to determine and record the cause of a deviation or excursion, and the time the deviation or excursion began and ended; and

(ii) Procedures for recording the corrective action taken, the time corrective action was initiated, and the time and date the corrective action was completed.

(7) A maintenance schedule for each emission unit and control device that is consistent with the manufacturer's instructions and recommendations for routine and long-term maintenance.

(e) Prior to the relevant compliance date for your source as specified in § 63.7083(g), you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

■ 5. Amend § 63.7112 by revising paragraphs (b), (c), (m), and (o) to read as follows:

§ 63.7112 What performance tests, design evaluations, and other procedures must I use?

* * * * *

(b) Prior to the relevant compliance date for your source as specified in § 63.7083(g), each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions specified in table 5 to this subpart. Beginning July 16, 2024, each performance test must include the methods specified in rows 19–24 of table 5 to this subpart. On and after the relevant compliance date for your source as specified in § 63.7083(g), each performance test must be conducted based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source and under the specific conditions in table 5 to this subpart. Representative conditions exclude periods of startup and shutdown. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(c) Prior to the relevant compliance date for your source as specified in § 63.7083(g), you may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1). On and after the relevant compliance date for your source as specified in § 63.7083(g), you may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7112(b).

* * * * *

(m) On and after the relevant compliance date for your source as specified in § 63.7083(g), during startup, kilns must be tested hourly to determine when lime product meets the definition of on-specification lime product.

* * * * *

(o) The concentration of total organic HAP and dioxins/furans shall be corrected to 7 percent oxygen using equation 5 to this paragraph (o):

Equation 5 to Paragraph (o)

$$C_{7\%} = C_{unc} * \frac{13.9}{(20.9 - C_{O2})} \qquad (Eq. 5)$$

Where:

$C_{7\%}$ = concentration of total organic HAP, ppmv on a dry basis or dioxins/furans in ng/dscm corrected to 7 percent oxygen.

C_{unc} = uncorrected total organic HAP, ppmv on a dry basis or dioxins/furans in ng/dscm.

C_{O2} = concentration of oxygen (percent).

■ 6. Amend § 63.7121 by revising paragraph (d) to read as follows:

§ 63.7121 How do I demonstrate continuous compliance with the emission limitations standard?

* * * * *

(d) Prior to the relevant compliance date for your source as specified in § 63.7083(g), consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

* * * * *

■ 7. Amend § 63.7130 by revising paragraph (e) introductory text to read as follows:

§ 63.7130 What notifications must I submit and when?

* * * * *

(e) If you are required to conduct a performance test, design evaluation, opacity observation, VE observation, or other initial compliance demonstration as specified in table 4 or 5 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). Beginning on the relevant compliance date for your source as specified in § 63.7083(g), submit all subsequent Notification of Compliance Status following the procedure specified in § 63.7131(h).

* * * * *

■ 8. Amend § 63.7131 by revising paragraphs (b)(6), (c)(4) through (6), (d) introductory text, and (e) introductory text to read as follows:

§ 63.7131 What reports must I submit and when?

* * * * *

(b) * * *

(6) Beginning on the relevant compliance date for your source as specified in § 63.7083(g), submit all subsequent compliance reports following the procedure specified in paragraph (h) of this section.

(c) * * *

(4) Prior to the relevant compliance date for your source as specified in § 63.7083(g), if you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there were no deviations from any emission limitations (emission limit, operating limit, opacity limit, and VE limit) that apply to you, the compliance report must include a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which the continuous monitoring systems (CMS) were out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS were out-of-control during the reporting period.

* * * * *

(d) For each deviation from an emission limitation (emission limit, operating limit, opacity limit, and VE limit) that occurs at an affected source where you are not using a CMS to comply with the emission limitations in this subpart, the compliance report must contain the information specified in paragraphs (c)(1) through (4) and (d)(1) and (2) of this section. The deviations must be reported in accordance with the requirements in § 63.10(d) prior to the relevant compliance date for your source as specified in § 63.7083(g) and the requirements in § 63.10(d)(1) through (4) beginning on the relevant compliance date for your source as specified in § 63.7083(g).

* * * * *

(e) For each deviation from an emission limitation (emission limit, operating limit, opacity limit, and VE limit) occurring at an affected source where you are using a CMS to comply with the emission limitation in this subpart, you must include the information specified in paragraphs (c)(1) through (4) and (e)(1) through (11) of this section, except that beginning on the relevant compliance date for your source as specified in § 63.7083(g), the semiannual compliance report must also include the information included in paragraph (e)(12) of this section. This includes periods of startup, shutdown, and malfunction.

* * * * *

■ 9. Amend § 63.7132 by revising paragraph (a)(2) introductory text to read as follows:

§ 63.7132 What records must I keep?

(a) * * *

(2) Prior to the relevant compliance date for your source as specified in § 63.7083(g), the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. On and after the relevant compliance date for your source as specified in § 63.7083(g), the records in paragraphs (a)(2)(i) and (ii) of this section.

* * * * *

■ 10. Amend § 63.7143 by revising the definition of "deviation" to read as follows:

§ 63.7143 What definitions apply to this subpart?

* * * * *

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

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

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

(3) Prior to the relevant compliance date for your source as specified in § 63.7083(g), fails to meet any emission limitation (including any operating limit) in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is allowed by this subpart.

■ 11. Revise table 2 to subpart AAAAA to read as follows:

TABLE 2 TO SUBPART AAAAA OF PART 63—STARTUP AND SHUTDOWN EMISSION LIMITS FOR KILNS AND COOLERS

[As required in § 63.7090(b), on and after the relevant compliance date for your source as specified in § 63.7083(g), you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit	You have demonstrated compliance, if after following the requirements in § 63.7112 . . .
1. All new and existing lime kilns and their associated coolers equipped with an FF or an ESP during each startup.	Emissions must not exceed 15 percent opacity (based on startup period block average).	i. Installed, maintained, calibrated and operated a COMS as required by 40 CFR part 63, subpart A, General Provisions and according to PS–1 of appendix B to part 60 of this chapter, except as specified in § 63.7113(g)(2); ii. Collected the COMS data at a frequency of at least once every 15 seconds, determining block averages for each startup period and demonstrating for each startup block period the average opacity does not exceed 15 percent.
2. All existing lime kilns and their associated coolers that have a wet scrubber during each startup.	See item 2.b of table 3 of subpart AAAAA for emission limit.	See item 1 of table 6 of subpart AAAAA for requirements for demonstrating compliance.
3. All new and existing lime kilns and their associated coolers equipped with an FF or an ESP during shutdown.	Emissions must not exceed 15 percent opacity (based on 6-minute average opacity for any 6-minute block period does not exceed 15 percent).	i. Installed, maintained, calibrated and operated a COMS as required by 40 CFR part 63, subpart A, General Provisions and according to PS–1 of appendix B to part 60 of this chapter, except as specified in § 63.7113(g)(2); ii. Collecting the COMS data at a frequency of at least once every 15 seconds, determining block averages for each 6-minute period and demonstrating for each 6-minute block period the average opacity does not exceed 15 percent.
4. All existing lime kilns and their associated coolers that have a wet scrubber during shutdown.	See item 2.b of table 3 of subpart AAAAA for emission limit.	See item 1 of table 6 of subpart AAAAA for requirements for demonstrating compliance.

■ 12. Revise tables 5 and 6 to subpart AAAAA to read as follows:

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS

[As required in § 63.7112, you must conduct each performance test in the following table that applies to you.]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Select the location of the sampling ports and the number of traverse points.	Method 1 or 1A of appendix A to part 60 of this chapter; and § 63.6(d)(1)(i).	Sampling sites must be located at the outlet of the control device(s) and prior to any releases to the atmosphere.
2. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Determine velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to part 60 of this chapter.	Not applicable.
3. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Conduct gas molecular weight analysis.	Method 3, 3A, or 3B in appendix A to part 60 of this chapter.	You may use manual procedures (but not instrumental procedures) of ASME PTC 19.10–1981—Part 10 (available for purchase from Three Park Avenue, New York, NY 10016–5990) as an alternative to using Method 3B.
4. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter.	Not applicable.
5. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler, and which uses a negative pressure PM control device.	Measure PM emissions	Method 5 in appendix A to part 60 of this chapter.	Conduct the test(s) when the source is operating at representative operating conditions in accordance with § 63.7(e) before the relevant compliance date for your source as specified in § 63.7083(g) and § 63.7112(b) on and after the relevant compliance date for your source as specified in § 63.7083(g); the minimum sampling volume must be 0.85 dry standard cubic meter (dscm) (30 dry standard cubic foot (dscf)); if there is a separate lime cooler exhaust to the atmosphere, you must conduct the Method 5 test of the cooler exhaust concurrently with the kiln exhaust test.

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As required in § 63.7112, you must conduct each performance test in the following table that applies to you.]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
6. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler, and which uses a positive pressure FF or ESP.	Measure PM emissions	Method 5D in appendix A to part 60 of this chapter.	Conduct the test(s) when the source is operating at representative operating conditions in accordance with § 63.7(e) before the relevant compliance date for your source as specified in § 63.7083(g) and § 63.7112(b) on and after the relevant compliance date for your source as specified in § 63.7083(g); If there is a separate lime cooler exhaust to the atmosphere, you must conduct the Method 5 or 5D test of the separate cooler exhaust concurrently with the kiln exhaust test. Refer to item 5 of this table for sampling time and volume requirements.
7. Each lime kiln	Determine the mass rate of stone feed to the kiln during the kiln performance test.	Any suitable device	Calibrate and maintain the device according to manufacturer's instructions; the measuring device used must be accurate to within ±5 percent of the mass rate of stone feed over its operating range.
8. Each lime kiln equipped with a wet scrubber.	Establish the operating limit for the average gas stream pressure drop across the wet scrubber during the PM and HCl performance test(s).	Data for the gas stream pressure drop measurement device during the kiln performance test.	The continuous pressure drop measurement device must be accurate within plus or minus 1 percent; you must collect the pressure drop data during the period of the performance test and determine the operating limit according to § 63.7112(j).
9. Each lime kiln equipped with a wet scrubber.	Establish the operating limit for the average liquid flow rate to the scrubber during the PM and HCl performance test(s).	Data from the liquid flow rate measurement device during the kiln performance test.	The continuous scrubbing liquid flow rate measuring device must be accurate within plus or minus 1 percent; you must collect the flow rate data during the period of the performance test and determine the operating limit according to § 63.7112(j).
10. Each lime kiln equipped with a FF or ESP that is monitored with a PM detector.	Have installed and have operating the BLDS or PM detector prior to the PM performance test.	Standard operating procedures incorporated into the OM&M plan.	According to the requirements in § 63.7113(d) or (e), respectively.
11. Each lime kiln equipped with a FF or ESP that is monitored with a COMS.	Have installed and have operating the COMS prior to the performance test.	Standard operating procedures incorporated into the OM&M plan and as required by 40 CFR part 63, subpart A, General Provisions and according to PS–1 of appendix B to part 60 of this chapter, except as specified in § 63.7113(g)(2).	According to the requirements in § 63.7113(g).
12. Each stack emission from a PSH operation, vent from a building enclosing a PSH operation, or set of multiple storage bins with combined stack emissions, which is subject to a PM emission limit.	Measure PM emissions	Method 5 or Method 17 in appendix A to part 60 of this chapter.	The sample volume must be at least 1.70 dscm (60 dscf); for Method 5, if the gas stream being sampled is at ambient temperature, the sampling probe and filter may be operated without heaters; and if the gas stream is above ambient temperature, the sampling probe and filter may be operated at a temperature high enough, but no higher than 121 °C (250 °F), to prevent water condensation on the filter (Method 17 may be used only with exhaust gas temperatures of not more than 250 °F).
13. Each stack emission from a PSH operation, vent from a building enclosing a PSH operation, or set of multiple storage bins with combined stack emissions, which is subject to an opacity limit.	Conduct opacity observations ..	Method 9 in appendix A to part 60 of this chapter.	The test duration must be for at least 3 hours and you must obtain at least thirty, 6-minute averages.
14. Each stack emissions source from a PSH operation subject to a PM or opacity limit, which uses a wet scrubber.	Establish the average gas stream pressure drop across the wet scrubber during the PM and HCl performance test(s).	Data for the gas stream pressure drop measurement device during the PSH operation stack performance test.	The pressure drop measurement device must be accurate within plus or minus 1 percent; you must collect the pressure drop data during the period of the performance test and determine the operating limit according to § 63.7112(j).
15. Each stack emissions source from a PSH operation subject to a PM or opacity limit, which uses a wet scrubber.	Establish the operating limit for the average liquid flow rate to the scrubber during the PM and HCl performance test(s).	Data from the liquid flow rate measurement device during the PSH operation stack performance test.	The continuous scrubbing liquid flow rate measuring device must be accurate within plus or minus 1 percent; you must collect the flow rate data during the period of the performance test and determine the operating limit according to § 63.7112(j).
16. Each FF that controls emissions from only an individual, enclosed, new or existing storage bin.	Conduct opacity observations ..	Method 9 in appendix A to part 60 of this chapter.	The test duration must be for at least 1 hour and you must obtain ten 6-minute averages.
17. Fugitive emissions from any PSH operation subject to an opacity limit.	Conduct opacity observations ..	Method 9 in appendix A to part 60 of this chapter.	The test duration must be for at least 3 hours, but the 3-hour test may be reduced to 1 hour if, during the first 1-hour period, there are no individual readings greater than 10 percent opacity and there are no more than three readings of 10 percent during the first 1-hour period.
18. Each building enclosing any PSH operation, that is subject to a VE limit.	Conduct VE check	The specifications in § 63.7112(k).	The performance test must be conducted while all affected PSH operations within the building are operating; the performance test for each affected building must be at least 75 minutes, with each side of the building and roof being observed for at least 15 minutes.

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As required in §63.7112, you must conduct each performance test in the following table that applies to you.]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
19. Each lime kiln	Measure hydrogen chloride	Method 320 or 321 of appendix A of this part or ASTM 6348–12e1 (Note 1).	The test duration must be at least one hour. HCl must be used for the analyte spiking. For a positive pressure FF or ESP, determine the number of sampling points per the stratification check procedures of section 8.1.2 of Method 7E using the sample points determined using the procedures of Section 8 of EPA Method 5D.
20. Each lime kiln	Measure mercury	Method 29 or 30B Appendix A to part 60 of this chapter or ASTM D6784–16.	For Method 29 and ASTM D6784–16 the test duration must be at least two hours and the sample volume must be at least 1.70 dscm (60 dscf). For Method 30B, the test duration must be at least one hour and the sample volume at least 100 liters. For a positive pressure FF or ESP, use the procedures of Section 8 of EPA Method 5D for sampling points.
21. Each lime kiln	Measure total organic HAP[2]	Method 18 and/or 320 in appendix A to part 60 of this chapter and/or ASTM D6348–12e1[1].	The test duration must be at least 1 hour. For EPA Method 320 and ASTM D6348–12e1, for a positive pressure FF or ESP, determine the number of sampling points per the stratification check procedures of section 8.1.2 of Method 7E using the sample points determined using the procedures of Section 8 of EPA Method 5D.
22. Each lime kiln	Measure dioxins/furans	Method 23 in Appendix A to part 60 of this chapter.	The test duration must be at least 3 hours and the must be at least 3 dscm (106 dscf). For a positive pressure FF or ESP, use the procedures of Section 8 of EPA Method 5D for sampling points. When calculating TEQ, zero may be used for congeners that are below the EDL.
23. Each lime kiln equipped with dry sorbent injection.	Establish the operating limit for the dry sorbent flow rate during the HCl performance test.	Data for the dry sorbent flow rate device during the HCl performance test.	The flow monitor must meet the criteria in §63.7113(h); you must collect the dry sorbent flow rate data during the period of the HCl performance test and determine the operating limit according to §63.7112(j).
24. Each lime kiln equipped with a thermal oxidizer.	Establish the operating limit for the combustion chamber temperature during the total organic HAP and D/F performance test(s).	Data for the temperature device during the total organic HAP and dioxin/furan performance test(s).	The temperature device must meet the criteria in §63.7113(i); you must collect the temperature data during the period of the total organic HAP and D/F performance test(s) and determine the operating limit according to §63.7112(j).
25. Each lime kiln equipped with activated carbon injection.	Establish the operating limit for the combustion chamber temperature during the total organic HAP, D/F, and mercury performance test(s).	Data for the activated carbon flow rate device during the total organic HAP, dioxin/furan, and mercury performance test(s).	The flow monitor must meet the criteria in §63.7113(h); you must collect the activated carbon flow rate data during the period of the total organic HAP, D/F, and mercury performance test(s)and determine the operating limit according to §63.7112(j).

[1] When using ASTM D6348–12e1 (1) the test plan preparation and implementation in the Annexes to ASTM D6348–12e1, sections A1 through A8 are mandatory, (2) In ASTM D6348–12e1 Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be 70% ≥ R ≤ 130%. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.*, the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound according to: Reported Results = ((Measured Concentration in Stack))/(%R) × 100.

[2] Total Organic HAP is the sum of the concentrations of compounds of formaldehyde, acetaldehyde, toluene, benzene, m-xylene, p-xylene, o-xylene, styrene, ethyl benzene, and naphthalene.

TABLE 6 TO SUBPART AAAAA OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS

[As required in §63.7121, you must demonstrate continuous compliance with each operating limit listed in table 3 to subpart AAAAA that applies to you, according to the following table.]

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
1. Each lime kiln controlled by a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test.	Collecting the wet scrubber operating data according to all applicable requirements in §63.7113 and reducing the data according to §63.7113(a); maintaining the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintaining the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test (the continuous scrubbing liquid flow rate measuring device must be accurate within ±1% and the continuous pressure drop measurement device must be accurate within ±1%).

TABLE 6 TO SUBPART AAAAA OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

[As required in § 63.7121, you must demonstrate continuous compliance with each operating limit listed in table 3 to subpart AAAAA that applies to you, according to the following table.]

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
2. Each lime kiln or lime cooler equipped with a FF and using a BLDS, and each lime kiln equipped with an ESP or FF using a PM detector.	a. Maintain and operate the FF or ESP such that the bag leak or PM detector alarm, is not activated and alarm condition does not exist for more than 5 percent of the total operating time in each 6-month period.	(i) Operating the FF or ESP so that the alarm on the bag leak or PM detection system is not activated and an alarm condition does not exist for more than 5 percent of the total operating time in each 6-month reporting period; and continuously recording the output from the BLD or PM detection system; and (ii) Each time the alarm sounds and the owner or operator initiates corrective actions within 1 hour of the alarm, 1 hour of alarm time will be counted (if the owner or operator takes longer than 1 hour to initiate corrective actions, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate corrective actions); if inspection of the FF or ESP system demonstrates that no corrective actions are necessary, no alarm time will be counted.
3. Each stack emissions source from a PSH operation subject to an opacity limit, which is controlled by a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test.	Collecting the wet scrubber operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintaining the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test (the continuous scrubbing liquid flow rate measuring device must be accurate within ±1% and the continuous pressure drop measurement device must be accurate within ±1%).
4. For each lime kiln or lime cooler equipped with a FF or an ESP that uses a COMS as the monitoring device.	a. Maintain and operate the FF or ESP such that the average opacity for any 6-minute block period does not exceed 15 percent.	i. Installing, maintaining, calibrating and operating a COMS as required by 40 CFR part 63, subpart A, General Provisions and according to PS–1 of appendix B to part 60 of this chapter, except as specified in § 63.7113(g)(2); and ii. Collecting the COMS data at a frequency of at least once every 15 seconds, determining block averages for each 6-minute period and demonstrating for each 6-minute block period the average opacity does not exceed 15 percent.
5. Each lime kiln equipped with dry sorbent injection.	Maintain the 3-hour block dry sorbent and/or activated carbon flow rate greater than or equal to the injection flow rate operating limit established during the most recent performance test..	Collecting the dry sorbent and/or activated carbon injection operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average injection flow rate greater than or equal to the injection flow rate operating limit established during the performance test
6. Each lime kiln equipped with a thermal oxidizer.	Maintain the 3-hour block average combustion chamber temperature greater or equal to the combustion chamber operating limit established in the most recent performance test.	Collecting the thermal oxidizer operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average combustion chamber temperature greater than or equal to the combustion chamber operating limit established during the performance test.

13. Revise table 8 to subpart AAAAA to read as follows:

TABLE 8 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR REPORTS

[As required in § 63.7131, you must submit each report in this table that applies to you.]

You must submit a . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. If there are no deviations from any emission limitations (emission limit, operating limit, opacity limit, and VE limit) that applies to you, a statement that there were no deviations from the emission limitations during the reporting period;.	Semiannually according to the requirements in § 63.7131(b).

TABLE 8 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR REPORTS—Continued

[As required in § 63.7131, you must submit each report in this table that applies to you.]

You must submit a . . .	The report must contain . . .	You must submit the report . . .
	b. If there were no periods during which the CMS, including any operating parameter monitoring system, was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS was out-of-control during the reporting period;.	Semiannually according to the requirements in § 63.7131(b).
	c. If you have a deviation from any emission limitation (emission limit, operating limit, opacity limit, and VE limit) during the reporting period, the report must contain the information in § 63.7131(d);.	Semiannually according to the requirements in § 63.7131(b).
	d. If there were periods during which the CMS, including any operating parameter monitoring system, was out-of-control, as specified in § 63.8(c)(7), the report must contain the information in § 63.7131(e); and.	Semiannually according to the requirements in § 63.7131(b).
	e. Before the relevant compliance date for your source as specified in § 63.7083(g), if you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i). On and after the relevant compliance date for your source as specified in § 63.7083(g), if you had a startup, shutdown or malfunction during the reporting period and you failed to meet an applicable standard, the compliance report must include the information in § 63.7131(c)(3)..	Semiannually according to the requirements in § 63.7131(b).
2. Before the relevant compliance date for your source as specified in § 63.7083(g), an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the SSMP.
3. Before the relevant compliance date for your source as specified in § 63.7083(g), an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority. See § 63.10(d)(5)(ii).
4. Performance Test Report	The information required in § 63.7(g) and § 63.7112(h).	According to the requirements of § 63.7131.

■ 14. Revise table 10 to subpart AAAAA to read as follows:

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.1(a)(1)–(4)	Applicability	Yes	
§ 63.1(a)(5)		No	
§ 63.1(a)(6)	Applicability	Yes	
§ 63.1(a)(7)–(a)(9)		No	
§ 63.1(a)(10)–(a)(14)	Applicability	Yes	
§ 63.1(b)(1)	Initial Applicability Determination	Yes	§§ 63.7081 and 63.7142 specify additional applicability determination requirements.
§ 63.1(b)(2)		No	
§ 63.1(b)(3)	Initial Applicability Determination	Yes	
§ 63.1(c)(1)	Applicability After Standard Established.	Yes	

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.1(c)(2)	Permit Requirements	No	Area sources not subject to subpart AAAAA, except all sources must make initial applicability determination.
§ 63.1(c)(3)–(4)		No	
§ 63.1(c)(5)	Area Source Becomes Major	Yes	
§ 63.1(c)(6)	Reclassification	Yes	
§ 63.1(d)		No	
§ 63.1(e)	Applicability of Permit Program	Yes	
§ 63.2	Definitions	Yes	Additional definitions in § 63.7143.
§ 63.3(a)–(c)	Units and Abbreviations	Yes	
§ 63.4(a)(1)–(a)(2)	Prohibited Activities	Yes	
§ 63.4(a)(3)–(a)(5)		No	
§ 63.4(b)–(c)	Circumvention, Severability	Yes	
§ 63.5(a)(1)–(2)	Construction/Reconstruction	Yes	
§ 63.5(b)(1)	Compliance Dates	Yes	
§ 63.5(b)(2)		No	
§ 63.5(b)(3)–(4)	Construction Approval, Applicability.	Yes	
§ 63.5(b)(5)		No	
§ 63.5(b)(6)	Applicability	Yes	
§ 63.5(c)		No	
§ 63.5(d)(1)–(4)	Approval of Construction/Reconstruction.	Yes	
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes	
§ 63.5(f)(1)–(2)	Approval of Construction/Reconstruction.	Yes	
§ 63.6(a)	Compliance for Standards and Maintenance.	Yes	
§ 63.6(b)(1)–(5)	Compliance Dates	Yes	
§ 63.6(b)(6)		No	
§ 63.6(b)(7)	Compliance Dates	Yes	
§ 63.6(c)(1)–(2)	Compliance Dates	Yes	
§ 63.6(c)(3)–(c)(4)		No	
§ 63.6(c)(5)	Compliance Dates	Yes	
§ 63.6(d)		No	
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	On and after the relevant compliance date for your source as specified in § 63.7083(g), see § 63.7100 for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Yes	
§ 63.6(e)(2)		No	[Reserved]
§ 63.6(e)(3)	Startup, Shutdown Malfunction Plan.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(g), the OM&M plan must address periods of startup and shutdown. See § 63.7100(d).
§ 63.6(f)(1)	SSM exemption	No	See § 63.7100. For periods of startup and shutdown, see § 63.7090(c).
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Yes	
§ 63.6(g)(1)–(g)(3)	Alternative Standard	Yes	
§ 63.6(h)(1)	SSM exemption	No	See § 63.7100. For periods of startup and shutdown, see § 63.7090(c).
§ 63.6(h)(2)	Methods for Determining Compliance.	Yes	
§ 63.6(h)(3)		No	

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.6(h)(4)–(h)(5)(i)	Opacity/VE Standards	Yes	This requirement only applies to opacity and VE performance checks required in table 5 to subpart AAAAA.
§ 63.6(h)(5) (ii)–(iii)	Opacity/VE Standards	No	Test durations are specified in subpart AAAAA; subpart AAAAA takes precedence.
§ 63.6(h)(5)(iv)	Opacity/VE Standards	No	
§ 63.6(h)(5)(v)	Opacity/VE Standards	Yes	
§ 63.6(h)(6)	Opacity/VE Standards	Yes	
§ 63.6(h)(7)	COM Use	Yes	
§ 63.6(h)(8)	Compliance with Opacity and VE	Yes	
§ 63.6(h)(9)	Adjustment of Opacity Limit	Yes	
§ 63.6(i)(1)–(i)(14)	Extension of Compliance	Yes	
§ 63.6(i)(15)		No	
§ 63.6(i)(16)	Extension of Compliance	Yes	
§ 63.6(j)	Exemption from Compliance	Yes	
§ 63.7(a)(1)–(a)(3)	Performance Testing Requirements.	Yes	§ 63.7110 specifies deadlines; § 63.7112 has additional specific requirements.
§ 63.7(b)	Notification	Yes	
§ 63.7(c)	Quality Assurance/Test Plan	Yes	
§ 63.7(d)	Testing Facilities	Yes	
§ 63.7(e)(1)	Conduct of Tests	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	On and after the relevant compliance date for your source as specified in § 63.7083(g), see § 63.7112(b).
§ 63.7(e)(2)–(4)	Conduct of Tests	Yes	
§ 63.7(f)	Alternative Test Method	Yes	
§ 63.7(g)	Data Analysis	Yes	
§ 63.7(h)	Waiver of Tests	Yes	
§ 63.8(a)(1)	Monitoring Requirements	Yes	See § 63.7113.
§ 63.8(a)(2)	Monitoring	Yes	
§ 63.8(a)(3)		No	
§ 63.8(a)(4)	Monitoring	No	Flares not applicable.
§ 63.8(b)(1)–(3)	Conduct of Monitoring	Yes	
§ 63.8(c)(1)(i)	CMS Operation/Maintenance	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(g), see § 63.7100 for OM&M requirements.
§ 63.8(c)(1)(ii)	CMS Spare Parts	Yes	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	On and after the relevant compliance date for your source as specified in § 63.7083(g), no longer required.
§ 63.8(c)(2)–(3)	CMS Operation/Maintenance	Yes	
§ 63.8(c)(4)	CMS Requirements	No	See § 63.7121.
§ 63.8(c)(4)(i)–(ii)	Cycle Time for COM and CEMS	Yes	No CEMS are required under subpart AAAAA; see § 63.7113 for CPMS requirements.
§ 63.8(c)(5)	Minimum COM procedures	Yes	COM not required.
§ 63.8(c)(6)	CMS Requirements	No	See § 63.7113.
§ 63.8(c)(7)–(8)	CMS Requirements	Yes	
§ 63.8(d)(1)–(2)	Quality Control	Yes	See also § 63.7113.
§ 63.8(d)(3)	Quality Control	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	
§ 63.8(e)	Performance Evaluation for CMS	Yes	See also § 63.7113
§ 63.8(f)(1)–(f)(5)	Alternative Monitoring Method	Yes	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test for CEMS.	No	No CEMS required in subpart AAAAA.

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.8(g)(1)–(g)(5)	Data Reduction; Data That Cannot Be Used.	No	See data reduction requirements in §§ 63.7120 and 63.7121.
§ 63.9(a)	Notification Requirements	Yes	See § 63.7130.
§ 63.9(b)	Initial Notifications	Yes	
§ 63.9(c)	Request for Compliance Extension.	Yes	
§ 63.9(d)	New Source Notification for Special Compliance Requirements.	Yes	
§ 63.9(e)	Notification of Performance Test	Yes	
§ 63.9(f)	Notification of VE/Opacity Test	Yes	This requirement only applies to opacity and VE performance tests required in table 5 to subpart AAAAA. Notification not required for VE/opacity test under table 7 to subpart AAAAA.
§ 63.9(g)	Additional CMS Notifications	No	Not required for operating parameter monitoring.
§ 63.9(h)(1)–(h)(3)	Notification of Compliance Status	Yes	
§ 63.9(h)(4)		No	
§ 63.9(h)(5)–(h)(6)	Notification of Compliance Status	Yes	
§ 63.9(i)	Adjustment of Deadlines	Yes	
§ 63.9(j)	Change in Previous Information	Yes	
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j)
§ 63.10(a)	Recordkeeping/Reporting General Requirements.	Yes	See §§ 63.7131 through 63.7133.
§ 63.10(b)(1)	Records	Yes	
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	On and after the relevant compliance date for your source as specified in § 63.7083(g), see § 63.7132 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Yes	
§ 63.10(b)(2)(iv)–(v)	Actions Taken to Minimize Emissions During SSM.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(g), see § 63.7100 for OM&M requirements.
§ 63.10(b)(2)(vi)–(xii)	Recordkeeping for CMS	Yes	
§ 63.10(b)(2)(xiii)	Records for Relative Accuracy Test.	No	
§ 63.10(b)(2)(xiv)	Records for Notification	Yes	
§ 63.10(b)(3)	Applicability Determinations	Yes	
§ 63.10(c)	Additional CMS Recordkeeping	No	See § 63.7132.
§ 63.10(d)(1)	General Reporting Requirements	Yes	
§ 63.10(d)(2)	Performance Test Results	Yes	
§ 63.10(d)(3)	Opacity or VE Observations	Yes	For the periodic monitoring requirements in table 7 to subpart AAAAA, report according to § 63.10(d)(3) only if VE observed and subsequent visual opacity test is required.
§ 63.10(d)(4)	Progress Reports	Yes	

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.10(d)(5)(i)	Periodic Startup, Shutdown, Malfunction Reports.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	On and after the relevant compliance date for your source as specified in § 63.7083(g), see § 63.7131 for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Immediate Startup, Shutdown, Malfunction Reports.	Yes before the relevant compliance date for your source as specified in § 63.7083(g). No on and after the relevant compliance date for your source as specified in § 63.7083(g).	
§ 63.10(e)	Additional CMS Reports	No	See specific requirements in subpart AAAAA, see § 63.7131.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Yes	
§ 63.11(a)–(b)	Control Device and Work Practice Requirements.	No	Flares not applicable.
§ 63.12(a)–(c)	State Authority and Delegations	Yes	
§ 63.13(a)–(c)	State/Regional Addresses	Yes	
§ 63.14(a)–(b)	Incorporation by Reference	No	
§ 63.15(a)–(b)	Availability of Information and Confidentiality.	Yes	
§ 63.16	Performance Track Provisions	Yes	

[FR Doc. 2024–27874 Filed 12–3–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 52i

[Docket No. NIH–2022–0001]

RIN 0925–AA70

National Institute on Minority Health and Health Disparities Research Endowment Programs

AGENCY: National Institutes of Health, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS or Department), through the National Institutes of Health (NIH), is amending the regulation governing the National Institute on Minority Health and Health Disparities (NIMHD) Research Endowment Programs (REP) to update the heading of the regulation to reflect the new name of the program, the eligibility requirements for the program to indicate the new expanded eligibility for research endowment awards that is mandated by statute, the heading of one section of the regulation, and certain references to regulations and policies cited in the regulation that apply to program grant awards.

DATES: This final rule is effective January 3, 2025.

FOR FURTHER INFORMATION CONTACT: Daniel Hernandez, NIH Regulations Officer, Office of Management Assessment, NIH, Rockledge 1, 6705 Rockledge Drive, Suite 601, Room 601–T, Bethesda, MD 20817, MSC 7901, by email at *dhernandez@mail.nih.gov,* or by telephone at 301–435–3343 (not a toll-free number). For program information contact: Dr. Nathan Stinson, Director, Division of Community Health and Population Sciences, NIMHD, by email *stinsonn@nih.gov,* or telephone 301–594–8704. Information concerning the requirements, application deadline dates, and an on-line application for NIMHD REP awards may be obtained from the NIMHD via *https://www.nimhd.nih.gov/programs/extramural/research-endowment.html.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Mandate

On March 18, 2022, the President signed into law the John Lewis NIMHD Research Endowment Revitalization Act of 2021, Public Law (Pub. L.) 117–104. Section 2 of this law amended section 464z–3(h) of the Public Health Service (PHS) Act, as amended (42 U.S.C. 285t(h)) by revising program eligibility requirements to include eligible current or former Health Resources and Services Administration (HRSA) centers of excellence under section 736 of the PHS Act and eligible current or former NIMHD centers of excellence under section 464z–4 of the PHS Act.

The program was originally authorized under the Minority Health and Health Disparities Research and Education Act of 2000 (Pub. L. 106–525). The law provided annual funding for up to five years to the endowments of active eligible HRSA centers of excellence. In 2010, the Patient Protection and Affordable Care Act (Pub. L. 111–148) expanded eligibility to include active eligible NIMHD centers of excellence. Public Law 117–104, enacted in 2022, expanded the eligibility for NIMHD Research Endowment Program awards to eligible current or former HRSA and NIMHD centers of excellence. Endowment funds must be invested and maintained for at least 20 years after the award period ends.

The objective of the program and its awards is to build research and training capacity and infrastructure at eligible HRSA or NIMHD centers of excellence to facilitate minority health and other health disparities research and to close the disparity gap in the burden of illness and death experienced by racial and ethnic minority Americans and other health disparity populations. Program activities may include strengthening the research infrastructure through the renovation of facilities, purchasing of state-of-the-art instruments and equipment, and enhancing information technology; enhancing the academic environment by recruiting faculty and creating relevant training courses focused on minority health and health

(b) *Definitions*—(1) *Captain of the Port* means Commander, Coast Guard Sector Delaware Bay.

(2) *Representative* means any Coast Guard commissioned, warrant, or petty officer or civilian employee who has been authorized to act on the behalf of the Captain of the Port.

(3) *Port Condition WHISKEY* means a condition set by the COTP when National Weather Service (NWS) weather advisories indicate sustained gale force winds (39–54 mph/34–47 knots) are predicted to reach the COTP Zone within 72 hours.

(4) *Port Condition X–RAY* means a condition set by the COTP when NWS weather advisories indicate sustained gale force winds (39–54 mph/34–47 knots) are predicted to reach the COTP zone within 48 hours.

(5) *Port Condition YANKEE* means a condition set by the COTP when NWS weather advisories indicate that sustained gale force winds (39–54 mph/34–47 knots) are predicted to reach the COTP zone within 24 hours.

(6) *Port Condition ZULU* means a condition set by the COTP when NWS weather advisories indicate that sustained gale force winds (39–54 mph/34–47 knots) are predicted to reach the COTP zone within 12 hours.

(7) *Port Condition RECOVERY* means a condition set by the COTP when NWS weather advisories indicate that sustained gale force winds (39–54 mph/34–47 knots) are no longer predicted for the regulated area. This port condition remains in effect until the regulated areas are deemed safe and are reopened to normal operations.

(c) *Regulations*—(1) *Port Condition WHISKEY.* All vessels must exercise due diligence in preparation for potential storm impacts. All oceangoing tank barges and their supporting tugs and all self-propelled oceangoing vessels over 500 gross tons (GT) must make plans to depart no later than setting of Port Condition YANKEE unless authorized by the COTP. The COTP may modify the geographic boundaries of the regulated area and actions to be taken under Port Condition WHISKEY, based on the trajectory and forecasted storm conditions.

(2) *Port Condition X–RAY.* All vessels must ensure that potential flying debris and hazardous materials are removed, and that loose cargo and cargo equipment is secured. Vessels at facilities must carefully monitor their moorings and cargo operations. Additional anchor(s) must be made ready to let go, and preparations must be made to have a continuous anchor watch during the storm. Engine(s) must be made immediately available for maneuvering. Also, vessels must maintain a continuous listening watch on VHF Channel 16. All oceangoing tank barges and their supporting tugs and all self-propelled oceangoing vessels over 500 GT must prepare to depart the port and anchorages within the affected regulated area. These vessels shall depart immediately upon the setting of Port Condition YANKEE. During this condition, slow-moving vessels may be ordered to depart to ensure safe avoidance of the incoming storm. Vessels that are unable to depart the port must contact the COTP to receive permission to remain in port. Vessels with COTP's permission to remain in port must implement their pre-approved mooring arrangement. The COTP may require additional precautions to ensure the safety of the ports and waterways. The COTP may modify the geographic boundaries of the regulated area and actions to be taken under Port Condition X–RAY based on the trajectory and forecasted storm conditions.

(3) *Port Condition YANKEE.* Affected ports are closed to all inbound vessel traffic. All oceangoing tank barges and their supporting tugs and all self-propelled oceangoing vessels over 500 GT must depart the regulated area. The COTP may require additional precautions to ensure the safety of the ports and waterways. The COTP may modify the geographic boundaries of the regulated area within the Delaware Bay COTP Zone and actions to be taken under Port Condition YANKEE based on the trajectory and forecasted storm conditions.

(4) *Port Condition ZULU.* When Port Condition ZULU is declared, cargo operations are suspended, except final preparations that are expressly permitted by the COTP as necessary to ensure the safety of the ports and facilities. Other than vessels designated by the COTP, no vessels may enter, transit, move, or anchor within the regulated area. The COTP may modify the geographic boundaries of the regulated area and actions to be taken under Port Condition ZULU based on the trajectory and forecasted storm conditions.

(5) *Port Condition RECOVERY.* The COTP Zone, or portions of it designated as regulated areas, are closed to all vessels. Based on assessments of channel conditions, navigability concerns, and hazards to navigation, the COTP may permit vessel movements with restrictions. Restrictions may include, but are not limited to, preventing, or delaying vessel movements, imposing draft, speed, size, horsepower, or daylight restrictions, or directing the use of specific routes. Vessels permitted to transit the regulated area shall comply with the lawful orders or directions given by the COTP or representative.

(6) *Regulated Area Notice.* The Coast Guard will provide notice, via Broadcast Notice to Mariners, Marine Safety Information Bulletins, or by on-scene representatives, of where, within the COTP Zone, a declared Port Condition is to be in effect.

(7) *Exception.* This regulation does not apply to authorized law enforcement agencies operating within the regulated area.

Dated: Sept. 3, 2024.

Kate F. Higgins-Bloom,

Captain, U.S. Coast Guard, Captain of the Port, Sector Delaware Bay.

[FR Doc. 2024–20391 Filed 9–9–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2023–0330; FRL–4908.1–02–OAR]

RIN 2060–AV20

Review of Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing requirements for sources that reclassify from major source status to area source status under the National Emission Standards for Hazardous Air Pollutants (NESHAP) program. The requirements of this final rule apply to all sources that choose to reclassify after September 10, 2024. The final amendments include a requirement that sources subject to certain major source NESHAP used to meet the Agency's obligations under the Clean Air Act (CAA) for seven specific persistent and bioaccumulative pollutants must remain subject to those NESHAP even if the sources reclassify to area source status. This requirement is based on the EPA's analysis of the statute and of comments received on the EPA's 2023 proposal to amend requirements for NESHAP-regulated sources that choose to reclassify from major to area source status. These final amendments will assure that sources accounting for not less than 90 per centum of the aggregate emissions of each persistent and bioaccumulative hazardous air pollutant (HAP) listed in

CAA remain subject to standards promulgated under the CAA, as the Act requires, and will thereby ensure continued health protections from NESHAP that regulate those HAP. Additionally, we are finalizing clarifications to notification requirements and updating language regarding submittal of confidential business information.

DATES: This final rule is effective September 10, 2024.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2023–0330. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact U.S. EPA, Attn: Nathan Topham, Mail Drop: D243–02, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–0483; email address: *topham.nathan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this action the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CRA Congressional Review Act
CDX Central Data Exchange
ERT Electronic Reporting Tool
FR Federal Register
HAP hazardous air pollutants(s)
ICR Information Collection Request
MACT maximum achievable control technology
MM2A Major MACT to Area
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
tpy tons per year
UMRA Unfunded Mandates Reform Act

Background information. On September 27, 2023, the EPA proposed revisions to the NESHAP General Provisions of 40 CFR part 63. In this action, we are finalizing certain decisions and revisions for the NESHAP General Provisions based on the 2023 proposal and in response to comments. Other proposed options are still being considered for possible future action, as discussed below. We summarize the comments we timely received regarding aspects of the proposed rule that are directly related to this final rule and provide our responses in this preamble. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

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

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What actions has the EPA taken under section 112(c)(6)?
C. What actions has the EPA taken dealing with major source reclassifications?
D. What did we propose on September 27, 2023, regarding sources choosing to reclassify?
III. What is included in this final rule?
A. What are the amendments to the General Provisions of 40 CFR part 63 promulgated as part of this action?
B. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the General Provisions of 40 CFR part 63?
A. Requirements and Limitations on Reclassification
B. Other Aspects of the September 2023 Proposal
V. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act (NTTAA)
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All
K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially impacted by this rule include major sources of HAP that are subject to certain major source NESHAP requirements and that reclassify from a major to an area source of HAP pursuant to the requirements in 40 CFR part 63, subpart A, implementing section 112 of the CAA. If you have any questions regarding the applicability of any aspect of this final rule, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112.* Following publication in the **Federal Register** (FR), the EPA will post the FR version and key technical documents at this same website.

C. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by November 12, 2024. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements established herein.

Section 307(d)(7)(B) of the CAA further provides that only an objection

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

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Specifically, the EPA is acting pursuant to its general regulatory authority under section 301, and to the specific mandate of section 112(c)(6) of the CAA, which requires the EPA to take action with respect to seven specific, persistent, bioaccumulative HAP. CAA section 112(c)(6) states, ''With respect to alkylated lead compounds, polycyclic organic matter, hexachlorobenzene, mercury, polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzofurans and 2,3,7,8-tetrachlorodibenzo-p-dioxin, the Administrator shall, not later than 5 years after November 15, 1990, list categories and subcategories of sources assuring that sources accounting for not less than 90 per centum of the aggregate emissions of each such pollutant are subject to standards under subsection (d)(2) or (d)(4) of this section.'' [1]

CAA section 112(c)(6) requires the EPA to address the seven specific HAPs in two steps. First, CAA section 112(c)(6) requires the EPA to identify and list the source categories that account for 90% of the total emissions of the seven HAPs. Next, CAA section 112(c)(6) requires the EPA to ''assur[e]'' that those sources remain subject to the standards the EPA established under CAA sections 112(d)(2) and (d)(4). Per section 301, the EPA has general authority ''to prescribe regulations as are necessary to carry out his function under this chapter.'' *See* 42 U.S.C. 7601(1). Accordingly, the EPA is in this final rule establishing a requirement that the sources in those source categories identified and listed by the EPA under CAA section 112(c)(6) remain subject to the requirements established under CAA section 112(d)(2) or (d)(4), as required by CAA section 112(c)(6), even if any such source reclassifies from a major to an area source after the effective date of the final rule.

Some background on the standards the EPA sets under CAA section 112 is helpful to understand the implications of the CAA section 112(c)(6) requirement. Under section 112 of the CAA the EPA is required to establish emissions standards for ''major sources'' and ''area sources'' of HAP to control and reduce their emissions. Section 112(a)(1) defines ''major'' source, in relevant part, as ''any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls,[2] in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants''; and 112(a)(2) defines ''area'' source, in relevant part, as ''any stationary source of hazardous air pollutants that is not a major source.'' 42 U.S.C. 7412(a)(1) and (2).

Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of HAP from major stationary sources, whereas there is typically a one-stage process to develop standards for area sources. Generally, the first stage for major stationary sources involves establishing standards based on maximum achievable control technology (MACT), and the second stage involves evaluating the predicted results of those standards to determine whether additional standards are needed to address any remaining risk associated with HAP emissions. This second stage is commonly referred to as the ''residual risk review.'' In addition to the residual risk review, section 112(d)(6) of the CAA also requires the EPA to review major and area source standards set under CAA section 112 every 8 years and revise the standards as necessary, taking into account any ''developments in practices, processes, or control technologies.'' This review is commonly referred to as the ''technology review.''

In the first stage of the CAA section 112 standard setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). Sources of HAP emissions are either major sources or area sources, and CAA section 112 establishes different requirements for the two types. For major sources, CAA section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of HAP emission reductions achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor.'' For area sources, by contrast, CAA section 112(d)(5) allows the EPA discretion to set standards based either on generally available control technologies or management practices (GACT standards) or on MACT standards. GACT standards are based on typical performance within a source category and are generally less stringent than MACT standards.

For categories of major sources and any area source categories subject to MACT standards, the second stage in standard-setting focuses on identifying and addressing any remaining (*i.e.,* ''residual'') risk pursuant to CAA section 112(f) and concurrently conducting a technology review pursuant to CAA section 112(d)(6). For categories of area sources subject to GACT standards, there is no requirement to address residual risk, but, similar to the major source categories, the section 112(d)(6) technology review is required.

In addition to the general standard setting and review processes described above, CAA section 112(c)(6) requires the EPA to ensure that sources responsible for 90 percent of the aggregate emissions of each of seven

[1] CAA section 112(c)(6) also states that ''This paragraph shall not be construed to require the Administrator to promulgate standards for such pollutants emitted by electric utility steam generating units.''

[2] ''Potential to emit'' is defined in the NESHAP General Provisions as ''the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable.'' See definition in 40 CFR 63.2.

specified pollutants are subject to standards under sections (d)(2) or (d)(4) of this section. 42 U.S.C. 7412(c)(6). To accomplish this, as noted previously, the section required the EPA to list, by November 15, 1995, source categories that account for 90 percent of the aggregate emissions of the listed pollutants, and to promulgate CAA section 112(d)(2) or (4) standards for those source categories by November 15, 2000.

As noted earlier, CAA section 112(d)(2) MACT standards take into consideration costs and non-air quality health and environmental impacts. CAA section 112(d)(4), by contrast, authorizes the EPA to set a health-based standard for a limited set of hazardous air pollutants for which a health threshold has been established, and provides that this health-based standard must provide for ''an ample margin of safety.'' 42 U.S.C. 7412(d)(4). In sum, therefore, CAA section 112(c)(6) specifies that the EPA must list source categories that account for 90 percent of the emissions of the seven listed HAPs and ''assure'' those sources are subject to MACT or health-based emission standards, rather than the GACT standards that generally apply to area sources. Further, the section ensures that sources subject to these NESHAP are also subject to the additional reviews required for major sources under CAA sections 112(f) and 112(d)(6).

B. What actions has the EPA taken under CAA section 112(c)(6)?

The EPA has taken several previous actions to identify and list categories and subcategories of sources that account for 90 percent of the aggregate emissions of each of the seven HAP listed in CAA section 112(c)(6). In 1998, the EPA issued a document entitled *Source Category Listing for Section 112(d)(2) Rulemaking Pursuant to Section 112(c)(6) Requirements,* 63 FR 17838, 17839 (April 10th, 1998). In that document, the EPA explains how it developed a 1990 base-year emissions inventory for the seven HAP enumerated in section 112(c)(6) of the CAA and used that inventory as the baseline for determining whether 90 percent of those emissions are subject to standards. In the same document, based on that inventory, the EPA identified source categories that, cumulatively, met the 90 percent requirement in CAA section 112(c)(6). That is, the EPA determined that emissions from the listed source categories accounted for 90 percent of the total emissions of the seven listed HAP, as of the base-year emissions inventory.

That 1990 baseline inventory and the category listing have undergone several updates since their initial publication in 1998. For example, in a document dated November 8, 2002, the EPA identified 5 area source categories that were no longer needed to meet the 90 percent requirement of CAA section 112(c)(6). *National Emission Standards for Hazardous Air Pollutants: Revision of Source Category List for Standards Under Section 112(c)(6) and 112(k) of the Clean Air Act,* 67 FR 68124 (2002).[3] Further, in the same document, the EPA removed the Open Burning of Scrap Tires source category from the 1990 baseline inventory. Due to the impact these updates had on the inventory, the EPA promulgated emission standards for several additional source categories,[4] while determining that certain other categories or subcategories are not necessary to meet the 90 percent requirement under CAA section 112(c)(6).

In 2001, Sierra Club filed suit in the U.S. District Court for the District of Columbia asserting, among other allegations, that the EPA had failed to promulgate emission standards sufficient to satisfy the 90 percent requirement in CAA section 112(c)(6). *See Sierra Club* v. *Jackson,* No. 01–1537 (D.D.C.). In an order issued March 31, 2006 (''2006 order''), the district court set a deadline (later extended) for the EPA to complete that task. *Sierra Club* v. *Johnson,* 444 F. Supp. 2d 46, 59 (D.D.C. 2006). In the course of that suit, the EPA explained that ''once [it] completes emission standards for the remaining source categories under section 112(c)(6), it intends to issue a document that explains how it has satisfied the requirements of section 112(c)(6) in terms of issuing emission standards for the source categories that account for the statutory thresholds identified in section 112(c)(6).'' *Id.*

On March 21, 2011, having promulgated standards sufficient to meet the 90 percent requirement under CAA section 112(c)(6), the EPA published a document in the **Federal Register** announcing it had met its statutory obligation. *Completion of Requirement to Promulgate Emission Standards,* 76 FR 15308 (March 21, 2011). The March 21, 2011, document contained the EPA Administrator's conclusion that the ''EPA has completed sufficient standards to meet the 90-percent requirement under . . . section 112(c)(6)'' (76 FR 15308). The Administrator based that determination on a technical memorandum ''document[ing] the actions the Agency has taken to meet these requirements.'' *Id.* The technical memorandum, entitled *Emission Standards for Meeting the Ninety Percent Requirement under Section 112(c)(6) of the Clean Air Act* and available at Docket ID No.: EPA–HQ–OAR–2004–0505, included an updated 1990 baseline inventory, an updated list of the source categories necessary to meet the 90 percent requirement, and a list of emission standards the EPA has promulgated for these source categories.

In 2011, Sierra Club filed suit in U.S. Court of Appeals for the District of Columbia (D.C. Circuit) challenging the March 21, 2011, document. The D.C. Circuit vacated the document, holding that the document was a legislative rulemaking that must be issued through a notice and comment rulemaking. *Sierra Club* v. *EPA,* 699 F.3d 530, 535 (D.C. Cir. 2012). In 2013, Sierra Club filed a motion with the district court, seeking enforcement of the 2006 order. In an opinion dated July 25, 2014, the district court held that the EPA failed to comply with the 2006 order and directed the EPA to initiate a process of notice and comment rulemaking before the Agency reissues, reconsiders or modifies its determination regarding CAA section 112(c)(6).

Therefore, the EPA issued a proposed rule on December 16, 2014 (79 FR 74656), as ordered by the D.C. Circuit, and provided an opportunity for comment on the EPA's proposed determination that it had fulfilled the requirements of CAA section 112(c)(6). On June 3, 2015, the EPA issued a **Federal Register** document finalizing the EPA's determination that the Agency had promulgated a sufficient number of section 112(d)(2) and (d)(4) emissions standards to satisfy the CAA section 112(c)(6) requirement that sources accounting for not less than 90 percent of the aggregate emissions of seven specific HAP be subject to standards under CAA sections 112(d)(2) or 112(d)(4) (80 FR 31470).[5] As of the

[3] Section 112(k) of the CAA requires the EPA in relevant part to ''identify not less than 30 hazardous air pollutants which, as the result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas,'' and to ''assure that sources accounting for 90 per centum or more of the aggregate emissions of each of the 30 identified hazardous air pollutants are subject to standards'' under CAA section 112(d).

[4] The EPA concluded in 2015 that sufficient standards had been promulgated to reach the 90 percent thresholds and does not reopen that conclusion here.

[5] Following a challenge to the 2015 rule, the court remanded the record to the EPA for explanation of its reliance on surrogates. In that case, the court remanded the rule so the EPA could provide additional information about the how the chosen surrogates relate to the CAA section 112(c)(6) HAP

2015 final rule, therefore, the EPA determined that it had ''assur[ed]'' that ''sources accounting for not less than 90 per centum of the aggregate emissions of'' the seven HAP enumerated in CAA section 112(c)(6) are ''subject to standards under subsection (d)(2) or (d)(4).'' 42 U.S.C. 112(c)(6).

C. What actions has the EPA taken dealing with major source reclassifications?

Shortly after the EPA began promulgating individual NESHAP following the 1990 CAA Amendments, the Agency received multiple requests to clarify when a major source of HAP could avoid CAA section 112 requirements applicable to major sources by taking enforceable limits to constrain its emissions below the major source thresholds and reclassifying as an area source. In response, the EPA issued a 1995 memorandum, referred to as the ''1995 Seitz Memorandum,'' [6] which provided guidance on timing issues related to avoidance of CAA section 112 requirements for major sources.

In the 1995 Seitz Memorandum, the EPA interpreted the relevant statutory language under CAA section 112 to find that facilities that are major sources of HAP may switch to area source status at any time until the ''first compliance date'' of the standard.[7] Under this interpretation, facilities that met the major source definition on the first substantive compliance date of an applicable major source NESHAP were required to continue to comply with that major source NESHAP even if the source subsequently became an area source by taking physical or operational limitations on the source's capacity to emit. This position was commonly referred to as the ''Once In, Always In'' (OIAI) policy.

On January 25, 2018, the EPA issued a memorandum from William L. Wehrum, Assistant Administrator of the Office of Air and Radiation, to the EPA Regional Air Division Directors, withdrawing the OIAI policy.[8] That memorandum, titled ''Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act'' and referred to as the Major MACT to Area (MM2A) Memorandum, discussed the statutory provisions that govern when a facility subject to major source NESHAP requirements under section 112 of the CAA may reclassify as an area source and, so long as it remains below the major source thresholds, avoid major source NESHAP requirements and other requirements applicable to major sources under CAA section 112.[9]

In the MM2A Memorandum, the EPA announced the future publication of a proposed rule to solicit input from the public on regulatory revisions needed to be consistent with the reading of the statute described in the Memorandum. On July 26, 2019, the EPA proposed regulatory text to implement the reading of the statute discussed in the MM2A Memorandum.[10]

The EPA published the 2020 MM2A final rule (85 FR 73854) on November 19, 2020. The rule formalized the withdrawal of the OIAI policy from the 2018 MM2A Memorandum and codified that a major source can reclassify to area source status at any time upon reducing its emissions and potential to emit HAP to below the CAA section 112 major source thresholds.

D. What did we propose on September 27, 2023, regarding sources choosing to reclassify?

In September 2023, the EPA proposed to add requirements under the NESHAP program for sources seeking to reclassify from major source status to area source status. See 88 FR 66336, September 27th, 2023. The aim of this proposal was to provide safeguards to prevent reclassified sources from increasing their emissions beyond the major source NESHAP requirements applicable at the time of reclassification. Specifically, the EPA proposed to codify in a new paragraph, 40 CFR 63.1(c)(6)(iv), that any major source choosing to reclassify to area source status must implement one of the following control methods or a combination: (1) continue to employ the emission control methods (*e.g.,* control device and/or emission reduction practices) required under the major source NESHAP requirements, including previously approved alternatives under the applicable NESHAP and associated monitoring, recordkeeping, and reporting (MRR); (2) comply with the control methods prescribed for reclassification under a specific NESHAP subpart; or (3) install and operate the emission controls that the permitting authority has reviewed and approved as ensuring the emissions of HAP from units or activities previously covered will not increase above the emission standard or level that was required under the major source NESHAP requirements at the time of reclassification. For this last option, the proposal would have required the record of the permitting authority decision to identify the specific units and control methods and include the data and analysis for the emission controls as well as the determination that MRR is adequate to assure compliance.

In addition to the safeguards, the EPA also proposed that limits taken by sources to reclassify from major to area sources must be federally enforceable as a condition of reclassification.[11] Specifically, we proposed to codify in a new paragraph, 40 CFR 63.1(c)(6)(iii), that, as a condition of reclassification, any limitations taken by a major source or required by a permitting authority to reclassify to area source status must be federally enforceable. The EPA decided not to propose edits to the definition of PTE under 40 CFR 63.2, opting rather to address the PTE definitions in the New Source Review, Title V, NESHAP, and related programs in a separate rulemaking or guidance at a later date.

Additionally, in light of the special attention Congress paid to specific pollutants in section 112(c)(6) of the CAA, we sought comment on whether additional restrictions are warranted for source categories that are subject to standards under CAA section 112(d)(2) or 112(d)(4) for the persistent and bioaccumulative HAP listed in CAA section 112(c)(6). Specifically, we sought comment on whether any of the following additional restrictions are warranted to achieve Congress' directive that source categories emitting these HAP be subjected to MACT standards under CAA section 112(d)(2) or (d)(4). First, we sought comment on restricting any sources [12] that are subject to a major source NESHAP and that are included

being regulated by the NESHAP. *Sierra Club* v. *EPA,* 863 F.3d 834 (D.C. Cir. 2017).

[6] ''Potential to Emit for MACT Standards—Guidance on Timing Issues,'' from John Seitz to the EPA Regional Air Division Directors (May 16, 1995) (''1995 Seitz Memorandum'') (available in the docket for this action).

[7] Per the 1995 memo, the ''first substantive compliance date'' was defined as the first date a source must comply with an emission limitation or other substantive regulatory requirement (*i.e.,* leak detection and repair programs, work practice measures, etc., but not a notice requirement) in the applicable standard.

[8] See notice of issuance of this guidance memorandum at 83 FR 5543 (February 8, 2018).

[9] 40 CFR 63.6(a)(2) states: ''If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source, such source shall be subject to the relevant emission standard or other requirement''.

[10] See 84 FR 36304 (July 26, 2019).

[11] 40 CFR 63.2 defines ''federally enforceable'' in relevant part as ''all limitations and conditions that are enforceable by the Administrator and citizens under the Act or that are enforceable under other statutes administered by the Administrator.''

[12] See EPA–HQ–OAR–2004–0505–0010 for a list of source categories and corresponding NESHAP subparts used to reach the 90 percent threshold. See table 1.1 of EPA–HQ–OAR–2004–0505–0006 for the CAA section 112(c)(6) emission inventory.

in the EPA's 90 percent list for any of the CAA section 112(c)(6) HAP from reclassifying from major to area source status. Second, we sought comment on requiring sources subject to a major source NESHAP to remain subject to that NESHAP for emissions of the section 112(c)(6) HAP even if those sources reclassify and no longer remain subject to the major source NESHAP for emissions of non-112(c)(6) HAP. Third, we considered allowing such sources to reclassify but requiring them to "continue to employ the emission control methods (*e.g.,* control device and/or emission reduction practices) required under the major source NESHAP requirements, including previously approved alternatives under the applicable NESHAP and associated monitoring, recordkeeping, and reporting (MRR)." See 88 FR at 66346. Finally, we sought comment on whether any other restrictions on sources or source categories emitting CAA section 112(c)(6) HAP may be warranted.

III. What is included in this final rule?

A. What are the amendments to the General Provisions of 40 CFR part 63 promulgated as part of this action?

This action amends the General Provisions of 40 CFR part 63 to require sources subject to certain major source NESHAP subparts to remain subject to those NESHAP regardless of whether they reclassify to area source status. Specifically, after September 10, 2024, sources that are subject to the NESHAP used to reach the 90 percent requirements articulated in CAA section 112(c)(6) as of September 10, 2024 must remain subject to such NESHAP even if they reclassify to area source status. Additionally, this final rule makes minor amendments to reporting requirements for submission of confidential business information and clarifies what notifications for a reclassifying facility must contain.

The EPA intends for these two actions to be severable from one another. Specifically, the EPA separately analyzed and determined the appropriateness of requirements for those sources that are subject to NESHAP used to reach the 90 percent threshold requirements in CAA section 112(c)(6), and of the unrelated minor amendments and clarifications to notification and reporting requirements for sources that reclassify. Each of the requirements in this final rule is functionally independent, such that each may operate independently of the other. Thus, the EPA has independently considered and adopted each portion of this final rule, and each is severable should there be judicial review. If a court were to invalidate either one of these elements, the EPA intends the remainder of this action to remain effective.

Importantly, we have designed the different elements of this final rule separately and each can function sensibly and independently. Specifically, the requirement for sources to remain subject to NESHAP listed under CAA section 112(c)(6) will operate independently and is in no way impacted by the separate clarifications to reporting requirements for sources that reclassify, and vice versa. Further, the supporting bases for each element of the final rule reflect the Agency's judgment that the element is independently justified and appropriate, and that each element can function independently even if one or more other parts of the rule has been set aside.

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

The revisions to General Provisions of 40 CFR part 63 being promulgated in this action are effective on September 10, 2024.

IV. What is the rationale for our final decisions and amendments for the General Provisions of 40 CFR part 63?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses.

A. Requirements and Limitations on Reclassification

1. What requirements and limitations were in the proposal for sources choosing to reclassify?

As described in section II.C. of this preamble, the EPA proposed to add requirements for sources that reclassify from major to area source status. This included proposed requirements for reclassified sources to take federally enforceable limits on their potential to emit, and for reclassified sources to maintain the MACT-level controls even after reclassification, which were termed "safeguards." The EPA also sought comment on whether there should be additional restrictions on sources that emit specific pollutants covered by CAA section 112(c)(6).

2. What has changed since proposal?

In the 2023 proposal, the EPA noted that the proposed "safeguards" would prevent emission increases from sources that elect to reclassify, and the EPA sought comment on whether additional measures or limitations were needed for source categories that are subject to standards under CAA section 112(d)(2) or 112(d)(4) for HAP listed pursuant to CAA section 112(c)(6).

The EPA is not, at this time, finalizing the proposed safeguards. During the public comment period, the EPA received substantial comments regarding the proposed safeguard requirements, and the EPA is still evaluating those comments. Because the issue requires more study, the EPA is leaving the 2023 proposal open as we assess finalizing a rule based on that aspect of the proposal. The EPA continues to be concerned about the possibility of sources reclassifying and then increasing emissions above the levels previously allowed under the applicable NESHAP. Therefore, the EPA continues to consider comments on the 2023 proposal and is working to develop solutions to prevent emissions backsliding. As discussed in the 2023 proposal, the EPA recognizes that backsliding would not be consistent with the intent or spirit of the Act.

In the interim, the EPA finds there is sufficient clarity in the language of CAA section 112(c)(6) and in related public comments submitted on the proposed rule to finalize a requirement that sources in source categories used to satisfy that section's 90-percent threshold must remain subject to the relevant NESHAP even if they reclassify to area source status.[13] This action addresses the EPA's obligation under CAA section 112(c)(6) to assure sources from the listed source categories are subject to CAA section 112(d)(2) or (d)(4) controls.

The EPA is continuing to evaluate whether additional actions are warranted to mitigate the impacts of the 2020 MM2A final rule, including to address the potential that sources may reclassify and then increase HAP emissions above the levels allowed under the applicable NESHAP. Since the EPA is only taking final action with respect to a limited aspect of the September 2023 proposal, we are only responding to comments related to the aspects of the proposal that we are finalizing in this action.[14] The EPA continues to consider other aspects of the 2023 proposal, including safeguards and federal enforceability for limits

[13] We note that a small number of the NESHAP used for meeting the 90 percent threshold are NESHAP that apply to area sources. For these NESHAP, covered sources that are already area sources are not affected by this rule, because those sources are subject to standards under CAA section 112(d)(2) or (d)(4), notwithstanding the fact that they are area sources.

[14] We have included a list of comments that are within scope for the final rule in the docket for this action, Docket ID No.: EPA–HQ–OAR–2023–0330.

used to support reclassification of sources. We will respond to the remaining comments when we take final action on other aspects of the September 2023 proposal.

3. What comments did we receive on the interaction of CAA section 112(c)(6) and limits for sources choosing to reclassify, and what are our responses?

Comment: Several commenters agreed with the EPA that the reclassification of sources that agree to keep their aggregate emissions of hazardous air pollutants below the major source threshold should not result in those sources avoiding compliance with the MACT standards for the seven persistent and bioaccumulative air toxics listed in CAA section 112(c)(6). The commenters suggested that allowing sources that reclassify to avoid the CAA section 112(c)(6) MACT requirements would defeat one of the primary purposes of the Act's air toxics provisions, which is to ensure sources that emit these specific pollutants are subject to the most protective standards possible. Several commenters argued that maintaining the requirements placed on these sources through the NESHAP program will ensure that the EPA meets Congress' directive and ensures continued protection of public health.

One commenter argued that the EPA is legally required to include a restriction to expressly prevent reclassification by sources subject to a major source NESHAP used to reach the 90 percent threshold for the specific pollutants listed in CAA section 112(c)(6), because that threshold reflects Congressional expectations on the scope of program coverage for specified pollutants, and the EPA cannot now ignore CAA section 112(c)(6). The commenter asserted that the EPA has authority to impose restrictions to protect overall NESHAP program integrity, Specifically, the commenter asserted the EPA should account for the fact that NESHAP standards, including those developed for CAA section 112(c)(6), were developed and implemented for decades without any considered design of allowing major sources to drop from major source NESHAP regulation. The commenter also asserted that the EPA has full authority to disallow reclassification by sources that were relevant to satisfaction of CAA section 112(c)(6) requirements, and the EPA may choose to disallow this on a temporary basis at least until a future program review is completed on the impacts of the MM2A final rule, which could be combined with future rulemakings to ensure that area source standards are developed or strengthened to align with their major source NESHAP categories.

Response: As discussed further in section IV.A.4. of this preamble, the EPA agrees with commenters that CAA section 112(c)(6) obligates the EPA to assure sources accounting for 90 percent of emissions of seven specific HAP remain subject to standards under sections 112(d)(2) or (d)(4) of the CAA. Allowing the sources subject to the NESHAP used to reach the 90 percent thresholds for these pollutants to reclassify and thereby avoid complying with those NESHAP would undermine the statutory requirement to "assur[e]" that the sources regulated under CAA section 112(c)(6) remain subject to standards under CAA section 112(d)(2) or 112(d)(4). In this final rule, the EPA is adding a restriction to the General Provisions of 40 CFR part 63 that will require sources that are subject to the NESHAP used to reach the CAA's 90 percent requirements for CAA section 112(c)(6) as of September 10, 2024 to remain subject to those specific major source NESHAP subparts regardless of whether they reclassify to area source status after September 10, 2024.

Comment: One commenter argued that the 2020 MM2A rule eliminated the EPA's ability to ensure sources subject to previously promulgated standards continue to comply with MACT standards. Therefore, the commenter claimed that CAA section 112(c)(6) requires that the Agency prevent any sources within the categories the EPA has used to reach the statutory 90-percent threshold for any of the CAA section 112(c)(6) HAP from reclassifying from major source status to area source status, because in the commenter's view, reclassification would allow the sources to increase their emissions above the levels allowed in the applicable NESHAP.

Two commenters argued that the language of CAA section 112(c)(6) requires the EPA to assure that a minimum of 90 percent of emissions of each pollutant are subject to MACT standards, and that the standards must be MACT limits promulgated under CAA section 112(d)(2) and not substitute restrictions adopted under other authorities. One commenter noted, for example, there are no health thresholds enabling the use of standards under CAA section 112(d)(4) for the pollutants listed in CAA section 112(c)(6).

Two commenters noted that CAA section 112(c)(6) creates an independent mandate that comprises both listing sources and promulgating standards (*Sierra Club* v. *EPA,* 699 F.3d 530, 531 (D.C. Cir. 2012)) and thereby imposes a substantive duty to issue CAA section 112(c)(6) standards, and to undertake any additional source-listing or standard setting required to reach the 90 percent threshold. *Id.* at 535. The commenters also noted that the CAA eliminates any prerequisite that the EPA make "a finding of health or environmental threat from area sources to determine if such sources need to be included to meet the 90 percent requirement" (63 FR 17,838, 17,842 (April 10, 1998)) and also requires the EPA "to establish and subject these listed sources to MACT standards, . . . even if it would have otherwise had the discretion to apply a less-stringent standard to any area sources on the list." (*Sierra Club* v. *EPA,* 863 F.3d 834, 835 (D.C. Cir. 2017) (Sierra Club II).)

One commenter noted that the EPA has purported to satisfy those duties by listing and promulgating standards for a series of source categories that contain the sources accounting for 90 percent of the aggregate emissions of each of the seven pollutants listed in CAA section 112(c)(6). The commenter also noted, however, that these source categories also include hundreds of sources that the EPA predicts could be eligible for reclassification based on the EPA's analysis of the categories and sources that the EPA believes likely to achieve cost savings by escaping MACT. (EPA–HQ–OAR–2023–0330–0020). The commenter concluded that the EPA lacks the statutory authority to exempt sources from MACT standards within the categories it has identified as necessary to satisfy CAA section 112(c)(6)'s mandate.

Two commenters stated that the EPA should confirm that because sources in the categories on its CAA section 112(c)(6) list are minimally necessary to satisfy CAA section 112(c)(6)'s independent requirements, the Agency cannot allow those sources to escape MACT standards, and the EPA should finalize a rule requiring sources in those categories to continue to comply with MACT standards regardless of whether their post-compliance emissions exceed the major-source threshold. The commenters stated that otherwise the 2020 MM2A rule, even with the additional safeguards contained in the 2023 MM2A proposal, would be flatly inconsistent with CAA section 112(c)(6).

Response: The EPA agrees that CAA section 112(c)(6) requires the EPA to assure that sources accounting for 90 percent of the aggregate emissions of the HAP listed in CAA section 112(c)(6) are subject to standards under CAA sections 112(d)(2) or 112(d)(4). The EPA is promulgating a requirement that assures

that outcome for sources subject to the NESHAP used reach the 90 percent thresholds required by CAA section 112(c)(6). See section IV.A.4 for discussion of the EPA's rationale for the promulgated requirement. Such sources may still reclassify from major to area source status, but they must remain subject to the NESHAP used to assure that 90 percent of the emissions of the section 112(c)(6)-listed HAP are subject to standards under CAA section 112(d)(2) or 112(d)(4).

Comment: One commenter argued that the EPA also has authority, and an obligation, to adopt the proposed restriction to prevent CAA section 112(c)(6) sources from reclassifying as a necessary revision under CAA section 112(d)(6) under the decision in *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088, 1099 (D.C. Cir. 2020), which found that CAA section 112(d)(6) obligates the EPA to revise standards to correct ''unlawfully omitted'' controls. The commenter also asserted that the statutory authority for restricting reclassification for CAA section 112(c)(6) sources is independent and severable of those supporting the EPA's other proposed safeguards.

Response: The EPA agrees that the statutory authority under CAA section 112(c)(6) is distinct from the EPA's authority for proposed safeguards. However, the EPA does not agree that CAA section *112(d)(6)* requires the amendments included in this final rule. *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020) requires the EPA to address regulatory gaps when the EPA undertakes a CAA section 112(d)(6) technology review, such as establishing missing MACT standards for listed air toxins known to be emitted from a particular source category. In this rule, the EPA has determined that CAA section 112(c)(6) obligates the EPA to assure that sources subject to the NESHAP used to establish 90 percent thresholds under that provision remain subject to those NESHAP, such that the sources in that source category remain in the pool of sources evaluated pursuant to the reviews conducted under CAA sections 112(f) and 112(d)(6). However, this authority under CAA section 112(c)(6) is distinct from the EPA's gap-filling obligation in promulgating technology reviews under CAA section 112(d)(6) pursuant to *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020). See section IV.A.4. of this preamble for discussion of our rationale and statutory authority.

Comment: One commenter urged the EPA to require reclassified sources to continue to comply with HAP-specific MACT standards and asserted that those sources should not be allowed to characterize as ''controls'' measures that would produce an increase in any HAP. The commenter noted that many of the regulated HAP are harmful in extraordinarily small quantities and are specifically listed in CAA section 112(c)(6), whereas other HAP are not. The commenter predicted that aggregate limits, even for sources outside the scope of CAA section 112(c)(6), would allow for dangerous increases in toxics that are only ever emitted in very small quantities, and of which affected communities would have no knowledge.

Response: As discussed further in section IV.A.4. of this preamble, the EPA has determined that given the special attention paid by Congress to the specific HAP included in CAA section 112(c)(6), the agency must disallow sources subject to NESHAP used to meet the 90 percent requirement of CAA section 112(c)(6) from avoiding compliance with those NESHAP through reclassification. Therefore, such sources must remain subject to those NESHAP, regardless of whether they reclassify to area source status.

However, the EPA is not at this time finalizing the proposed safeguards. During the public comment period, the EPA received substantial comments regarding the proposed safeguard requirements, and the EPA is still evaluating those comments. Because the issue requires more study, the EPA is leaving the proposal open as the EPA assesses finalizing a rule based on that aspect of the 2023 proposal. The EPA continues to be concerned about the possibility of sources increasing emissions as a result of reclassification and continues to consider comments on the 2023 proposal. In the interim, to address this concern in part, the EPA finds there is sufficient clarity regarding a subset of MACT-subject sources—those in categories relied on to satisfy CAA section 112(c)(6)—to justify acting now by finalizing a requirement for CAA section 112(c)(6)-affected sources to remain subject to the specific NESHAP that are used to meet the 90 percent thresholds under CAA section 112(c)(6) regardless of whether the sources reclassify.

Comment: Two commenters stated that allowing facilities to reclassify does not jeopardize the EPA's original goal of regulating 90 percent of the emissions of CAA section 112(c)(6) HAP because only 200 facilities have reclassified since the EPA changed its policy towards reclassification (see 88 FR 66349). One commenter added that those reclassifications do not automatically result in an increase in HAP emissions to just under the major source thresholds from detuning of controls.

Response: As discussed in section IV.A.4. of this preamble, the EPA has determined that allowing sources that reclassify to avoid the NESHAP used to meet the statutory requirement of CAA section 112(c)(6) is inconsistent with the Congressional mandate that the EPA ''assur[e]'' sources accounting for 90 percent of the emissions of the seven specific HAP listed in CAA section 112(c)(6) are subject to standards under CAA sections 112(d)(2) or 112(d)(4). Therefore, the EPA is finalizing a requirement that sources subject to these NESHAP must continue to comply even if the sources reclassify to area source status. The EPA disagrees with the commenter that such a restriction would only be justified if there were past evidence of sources' taking advantage of reclassification to increase their emissions to just below the major source thresholds. Congress clearly intended sources in the section 112(c)(6) source categories to continue to be subject to CAA section 112(d)(2) or (d)(4) standards, rather than GACT standards or whatever other standards (if any) apply to area sources in the source category. The EPA disagrees with the comment that we can assume that source categories required to reach the 90 percent threshold in CAA section 112(c)(6) will continue to be subject to standards under CAA sections 112(d)(2) or (d)(4) merely because there have not been a large number of reclassifications to date. The number of reclassifications to date is not relevant to ensuring that the EPA meets the statutory requirement in CAA section 112(c)(6). This action seeks to assure that sources subject to the NESHAP used to meet the statutory 90 percent requirement remain subject to standards under CAA sections 112(d)(2) or 112(d)(4), as section 112(c)(6) requires. As discussed further in section IV.A.4. of this preamble, the EPA finds this action is needed to meet the Agency's statutory obligation to ''assure'' that sources that account for 90 percent of the emissions of the seven HAP listed in CAA section 112(c)(6) remain subject to standards under CAA section 112(d)(2) or 112(d)(4), given that the 2020 MM2A rule would otherwise permit such sources to reclassify to area source status and no longer be subject to major source NESHAP requirements.

Comment: One commenter argued that the EPA should not adopt additional restrictions on MM2A for sources of persistent and bioaccumulative HAP under CAA section 112(c)(6) because the proposed

"safeguards" in the 2023 proposal are sufficient without further restrictions. The commenter asserted that if the 2020 MM2A rule operates properly, it should incentivize major sources to become area sources, through the adoption of innovative pollution control strategies—whether those are based on elements of existing major source NESHAP or are based on technological or material breakthroughs.

Response: The EPA has determined that the final amendments are required by CAA section 112(c)(6). The EPA is not at this time finalizing the proposed safeguards. During the public comment period, the EPA received substantial comments regarding the proposed safeguard requirements, and the EPA is still evaluating those comments. Because the issue requires more study, the EPA is leaving the proposal open as the EPA assesses finalizing a rule based on that aspect of the 2023 proposal. The EPA continues to be concerned about the possibility of sources increasing emissions as a result of reclassification and continues to consider comments on the 2023 proposal. In the interim, to address this concern in part, the EPA finds there is sufficient clarity regarding a subset of MACT-subject sources—those in categories relied on to satisfy CAA section 112(c)(6)—to justify acting now by finalizing a requirement for CAA section 112(c)(6)-affected sources to remain subject to the specific NESHAP that are used to meet the 90 percent thresholds under CAA section 112(c)(6) regardless of whether the sources reclassify.

Comment: One commenter argued that the EPA has no authority to impose constraints on reclassification under CAA section 112(c)(6). The commenter asserted that the CAA section 112(c)(6) requirement for the EPA to list and regulate a sufficient number of source categories to "assur[e] that sources accounting for not less than 90 per centum of the aggregate emissions of each pollutant [listed under CAA section 112(c)(6)] are subject to standards under subsection (d)(2) or (d)(4)" is unambiguously a one-time requirement. The commenter argued that it does not impose any obligation on the EPA to monitor the regulated source categories and make adjustments over time to maintain the 90 percent requirement. Similarly, the commenter asserted this provision imposes no obligation on affected sources to continue to comply with a NESHAP that the EPA relied upon in making the 90 percent determination. The commenter added it would be unreasonable in any event to construe the statute as imposing such obligations because the EPA would forever have to track the number of affected sources, the emissions of such affected sources, and changes to those sources that might affect the EPA's prior 90 percent determination, and the EPA would be required to adjust existing emissions standards or impose new emissions standards to maintain 90 percent coverage.

Response: This rule does not revisit the 2015 determination that sufficient source categories have been subjected to standards under CAA sections 112(d)(2) or (d)(4) to satisfy the section 112(c)(6) 90 percent requirement. However, as discussed further in section IV.A.4., the EPA has determined that the CAA requires that the EPA set standards sufficient to "assure" that sources in the categories and subcategories used to reach the 90 percent threshold are subject to section 112(d)(2) or (d)(4) standards. The EPA's determination of which NESHAP are necessary to achieve the 90 percent thresholds was made prior to the MM2A rulemaking, at a time when major sources, under the OIAI policy, were required to continue to comply with previously applicable major source NESHAP, even if the sources reduced emissions below major source thresholds. Allowing for sources subject to the NESHAP required to meet the 90 percent threshold to no longer be subject to these standards is contrary to the Agency's obligation to "assur[e]" those sources remain subject to standards under CAA sections 112(d)(2) or (4). The limitation promulgated today implements the statutory requirement under CAA section 112(c)(6) to assure source categories accounting for 90 percent of the aggregate emissions of the specific listed HAP are subject to CAA section 112(d)(2) or (d)(4) standards. Congress could not have envisioned requiring the EPA to list and regulate categories and subcategories of sources, and to assure those categories and subcategories of sources are subject to standards under CAA section 112(d)(2) and 112(d)(4), only to have those sources reclassify and avoid the standards that Congress explicitly required the EPA to establish for these source categories. Therefore, we have determined that even if a facility reclassifies, the sources at the facility that are subject to these NESHAP must remain subject, to assure they are subject to standards under CAA sections 112(d)(2) or 112(d)(4), as required by CAA section 112(c)(6).

Comment: A commenter opposed the option the EPA requested public comment on that would require sources to comply with the applicable major source standards for the seven HAP listed in CAA section 112(c)(6) while allowing sources to reclassify for other HAP. The commenter acknowledged that the EPA has the authority to apply GACT instead of MACT standards for area source emissions of pollutants other than the seven HAP listed in CAA section 112(c)(6). However, the commenter asserted that the EPA did not adequately justify why GACT standards would be more appropriate than MACT for all source categories rather than the rule-specific decisions the EPA has made in the past when developing MACT standards for area source standards promulgated under CAA section 112(c)(6) and GACT standards for other HAP from those area source categories. In addition, the commenter explained that this option would be impractical because the EPA relies on surrogates for the seven HAP listed in CAA section 112(c)(6), and there is no rule-specific analysis that could be used to support a pollutant-by-pollutant reconciliation of the 2020 MM2A Rule with the CAA section 112(c)(6) requirements for each pollutant. The commenter argued that the EPA did not explain how this proposed option would support Congress' goals of reducing HAP emissions and associated public health risks from these pollutants. Therefore, the commenter recommended that the EPA prevent CAA section 112(c)(6) listed sources from reclassifying as area sources for all HAP.

Similarly, another commenter emphasized that if the EPA does not completely repeal the 2020 MM2A rule, the EPA should not allow sources of the seven HAP listed in CAA section 112(c)(6) to reclassify as area sources and avoid the required emission reductions because the CAA specifically requires the EPA to ensure that 90 percent of the aggregate emissions for each pollutant are reduced to the maximum degree achievable.

Response: The EPA agrees with the commenter that it would not be appropriate to require sources of the seven HAP listed in CAA section 112(c)(6) to continue to comply only with standards addressing those CAA section 112(c)(6) HAP while no longer complying with other parts of the same NESHAP that do not directly address the 112(c)(6) HAP. As the commenter states, many of these NESHAP regulate the CAA section 112(c)(6) HAP through surrogates and it would be impractical to attempt to bifurcate compliance with a NESHAP. There is often a large degree of overlap in the controls, monitoring, recordkeeping, and reporting requirements that deal with CAA section 112(c)(6) HAP and other HAP. It

would create unnecessary burden and confusion to require sources to separate emissions of CAA section 112(c)(6) HAP from other pollutants. As explained further in section IV.A.4. below, the EPA finds that CAA section 112(c)(6) requires that while sources subject to NESHAP used for 112(c)(6) can still reclassify under the 2020 MM2A rule for purposes of other NESHAP not used to meet the CAA section 112(c)(6) requirements, those sources must continue to comply with all aspects of the CAA section 112(c)(6)-listed NESHAP regardless of whether they reclassify to area source status.

Comment: Several commenters asked the EPA to not allow major source emitters of mercury, dioxins, and PCBs and the other persistent and bioaccumulative pollutants listed in CAA section 112(c)(6) to reclassify as area sources, increase HAP emissions, and avoid monitoring and reporting requirements. Another commenter recommended that the EPA require all sources that emit persistent, bioaccumulative, or highly toxic HAP to follow the applicable NESHAP's emission control methods and monitoring, recordkeeping, and reporting requirements. One commenter emphasized that sources must comply with standards under CAA section 112(d)(2), and the EPA must not allow substitute standards, which could result in higher HAP emissions.

Response: The EPA agrees with commenters that sources used to meet the CAA's requirement to subject sources of 90 percent of the aggregate emissions of the HAP listed in 112(c)(6) should remain subject to those NESHAP, regardless of whether they reclassify to area source status. See section IV.A.4. for further discussion of our rationale.

4. What is the rationale for our final approach for CAA 112(c)(6) sources?

In this action, the EPA is finalizing requirements specific to CAA section 112(c)(6)-affected source categories. Specifically, to fulfill the EPA's statutory obligation to assure that sources accounting for 90 percent of the emissions of the seven HAP listed in section 112(c)(6) are subject to standards under CAA section 112(d)(2) or 112(d)(4), the EPA is requiring that such sources remain subject to the relevant NESHAP for their source category regardless of whether the sources reclassify to area-source status. The EPA finds that the 2020 MM2A rulemaking interfered with our obligations under CAA section 112(c)(6), because that rulemaking allowed major sources to reclassify to area source status but did not address the section 112(c)(6) requirement that such sources remain subject to standards issued under section 112(d)(2) or (d)(4). The Agency is therefore taking this action to assure that even if CAA section 112(c)(6)-affected sources reclassify, they remain subject to standards under CAA section 112(d)(2) or 112(d)(4). The EPA finds that this interpretation of CAA section 112(c)(6) comports with the text and purpose of the statute, relevant case law, and the context of CAA section 112(c)(6) within CAA section 112. The EPA is not revisiting our determination that we do not have an ongoing obligation to update the list of source categories used to reach the CAA section 112(c)(6) 90 percent requirements.

In this action the EPA is fulfilling our obligations under CAA section 112(c)(6), which provides that with respect to seven persistent and bioaccumulative HAP, the EPA shall "list categories and subcategories of sources assuring that sources accounting for not less than 90 per centum of the aggregate emissions of each such pollutant are subject to standards under subsection (d)(2) or (d)(4)." The EPA finds the best interpretation of CAA section 112(c)(6) is that the provision required the EPA to "list" source categories and "assure" that sources within those categories are and remain "subject to standards under subsection (d)(2) or (d)(4)." That is, we find that CAA section 112(c)(6) established two obligations for EPA: (1) to list categories and subcategories of sources to reach the 90 percent threshold; and (2) to assure such sources are subject to CAA section 112(d)(2) or 112(d)(4) requirements. The EPA satisfied the first obligation by listing and identifying categories and subcategories of sources to account for 90 percent of the aggregate emissions of each of the seven HAP listed in CAA section 112(c)(6) in prior actions, which are discussed in section II.B. of this preamble. When we issued our listing determinations, the OIAI policy in effect at that time ensured the second obligation—to assure that affected sources are subject to standards under CAA section 112(d)(2) or 112(d)(4)—would be satisfied in perpetuity, because listed sources could not avoid CAA section 112(d)(2) or (d)(4) controls by reclassifying. However, since the EPA withdrew the OIAI policy and allowed major sources to reclassify to area source status, and no longer be subject to major source NESHAP requirements and as a result possibly relaxing their emissions controls, the EPA finds that we are now obligated to promulgate this rulemaking to assure that sources in the listed categories nonetheless remain subject to standards under CAA section 112(d)(2) or 112(d)(4).

For these reasons, the EPA finds it is necessary to require that any source subject to major source NESHAP used to reach the CAA section 112(c)(6) 90 percent thresholds on September 10, 2024 remains subject to the same NESHAP regardless of whether the source reclassifies. In other words, a facility cannot avoid these CAA section 112(c)(6)-specific NESHAP by otherwise reclassifying from major to area source status after the effective date of this final rule. This final rule does not prevent reclassification for such sources. If a source is subject to multiple NESHAP, including some that are used to reach the CAA section 112(c)(6) 90 percent thresholds and others that are not, the source must remain subject to the CAA section 112(c)(6) NESHAP but is not required to remain subject to other major source NESHAP after reclassification.

The EPA finds support for this action in the special attention Congress paid to the seven HAP in CAA section 112(c)(6), by introducing additional requirements for these specific pollutants. The EPA finds that by allowing sources emitting these seven HAP to reclassify to area source status without maintaining CAA section 112(d)(2) or (d)(4) requirements for the NESHAP used to meet the 90 percent thresholds under CAA section 112(c)(6), the 2020 MM2A rule violated Congress' mandate that the EPA "assure" these sources are subject to CAA section 112(d)(2) or 112(d)(4) requirements. This mandate reflects Congress' clear intent that the EPA not only list source categories sufficient to cover 90 percent of the seven HAP identified in section 112(c)(6), but also ensure that these source categories remain subject to standards under CAA section 112(d)(2) or 112(d)(4), as opposed to the lesser GACT-level standards that frequently apply to area sources. In light of the ability of a major source to reclassify to an area source at any time as a result of the 2020 MM2A final rule, the EPA finds that the best way to achieve Congress' direction to, "assur[e] that sources accounting for not less than 90 per centum of the aggregate emissions of each such pollutant are subject to standards under subsection (d)(2) or (d)(4)," is for CAA section 112(c)(6) listed source categories to maintain CAA section 112(d)(2) or (d)(4) controls and other requirements in the NESHAP. This will also ensure that any future revisions to these NESHAP (*e.g.,* promulgated under CAA sections 112(f) or 112(d)(6) to amend the applicable

NESHAP) will apply to these sources. Sources covered by CAA section 112(c)(6)-listed NESHAP that are subject to title V permitting requirements remain subject to those requirements if they reclassify to area source status. In general, area sources subject to a NESHAP are required to have a title V permit unless the EPA has exempted the source category from title V permit. See, *e.g.,* 40 70.3(b)(2). In addition, because certain NESHAP require sources to comply with title V permitting requirements, sources that remain subject to such NESHAP through this rulemaking must therefore also continue to comply with title V permitting requirements.

The EPA finds that its interpretation of CAA section 112(c)(6) also comports with the D.C. Circuit's description of the EPA's CAA section 112(c)(6) obligations in *Sierra Club* v. *EPA,* 863 F.3d 834 (D.C. Cir. 2017), and is supported by commenters to the 2023 MM2A proposal. In *Sierra Club* v. *EPA,* the court read CAA section 112(c)(6) to create two requirements for the EPA: (1) to list categories and subcategories of sources of the seven specific HAP that account for 90 percent of the aggregate emissions of each; and (2) to establish and subject the listed sources to MACT standards. 863 F.3d 834, 835 (D.C. Cir. 2017). In that case, the court explained that CAA section 112(c)(6) requires the EPA, ''to establish and subject these listed sources to MACT standards, . . . even if [the EPA] would have otherwise had the discretion to apply a less-stringent standard to any area sources on the list.'' *Id.* Two commenters to the 2023 MM2A proposed rule agreed with this interpretation, stating that CAA section 112(c)(6) creates an independent mandate that comprises both listing sources and promulgating standards. Further, these commenters noted that allowing CAA section 112(c)(6) sources to reclassify to avoid meeting MACT standards would defeat the primary purpose of the provision, which is to ensure that both major and area sources of these specific HAP are subject to the most protective standards possible. We note that a number of area source categories have been subjected to MACT standards under CAA section 112(c)(6), including gold mines, electric arc furnace steelmaking, and area source coal fired boilers because these sources emit the specific HAP listed in CAA section 112(c)(6).

The EPA has previously established the list of source categories comprising the 90 percent thresholds in prior rulemakings and is not re-opening that determination. In this regard, the EPA is not revisiting the finding in the 2020 MM2A rulemaking (84 FR 36311) that it would not be reasonable to read CAA section 112(c)(6) to require an unattainable goal of continuing to meet the 90 percent threshold requirement even as overall emissions decline due to compliance with MACT standards. In that rulemaking, however, the EPA did not sufficiently consider the import of allowing 112(c)(6)-affected sources to reclassify—namely that in some cases, such sources could escape MACT standards and thereby undermine the protections that Congress laid out in CAA section 112(c)(6).

Prior to the 2018 MM2A memo and 2020 MM2A rulemaking, the EPA had previously satisfied our obligation under CAA section 112(c)(6) to ''assure'' sources in listed source categories remain subject to CAA section 112(d)(2) or (d)(4) standards, because no major NESHAP sources were able to reclassify as area sources after the first substantive compliance date of the applicable NESHAP. However, now that major sources are able to reclassify at any time as a result of the 2020 MM2A final rule, the EPA finds this action is necessary to ensure that both obligations reflected in CAA section 112(c)(6) are met. Because of the 2020 MM2A rulemaking, CAA section 112(c)(6)-listed major sources may currently reclassify to area source status without any requirement that they remain subject to CAA section 112(d)(2) or (d)(4) standards—thereby thwarting the second mandate of CAA section 112(c)(6). This rule addresses that problem.

The EPA's prior actions and statements regarding CAA section 112(c)(6) are not at odds with this action. The EPA's prior CAA section 112(c)(6) actions focused on listing source categories to satisfy the 90 percent threshold requirement. However, because the OIAI policy was in place at the time of those actions, the EPA did not consider that sources subject to the listed NESHAPs could subsequently reclassify, and that the EPA's obligation to assure that those listed source categories are subject to CAA sections 112(d)(2) and (d)(4) standards could be abrogated. In the 2015 listing rulemaking, the EPA explained, ''CAA section 112(c)(6) requires the EPA to ensure that source categories responsible for at least 90 percent of the aggregate emissions of each of the 7 specified pollutants are subject to standards under CAA sections 112(d)(2) or 112(d)(4)'' (80 FR 31470, 31471, June 3, 2015). Because the OIAI policy was in place at the time of that rulemaking, the EPA had no occasion to consider that a facility included in the listed source categories identified in that rulemaking would be able to reclassify after the first substantive compliance date and subsequently evade CAA section 112(d)(2) or (d)(4) standards. The EPA noted at the time of the 2015 rulemaking that the ''CAA section 112(c)(6) determination is a simple, discretionary accounting of the EPA's previous regulatory efforts.'' The EPA continues to agree with that conclusion in that the first aspect of the EPA's CAA section 112(c)(6) authority, and what was addressed in that rulemaking, was a listing exercise. This action is meant to maintain the status quo by ensuring that sources in those previously listed source categories that account for 90 percent of the enumerated HAP in CAA section 112(c)(6) remain subject to the standards called for in the statute.

In the 2020 MM2A rulemaking the EPA disagreed with commenters who claimed that CAA section 112(c)(6) created a continuous obligation such that affected sources could not reclassify. The EPA does not revisit that determination here, but in any event the Agency's reason for disagreement with such comments is distinct from the Agency's rationale here. This rulemaking does not upset the previously established 90 percent thresholds, nor create a ''never-ending cycle of listing and regulation in order to achieve an unattainable goal of ensuring that 90 percent of emissions are regulated,'' which the EPA expressed concerns about in the 2020 MM2A rule (85 FR 73861) and does not reconsider here. Rather this rulemaking closes a regulatory gap to address the EPA's obligation under CAA section 112(c)(6) that was opened with the 2018 MM2A memorandum and 2020 rulemaking. Further, this rulemaking does not prevent any source from reclassifying, rather we are adding requirements to ensure that reclassification for certain sources does not undermine Congress's intent that these sources are subject to standards under CAA section 112(d)(2) or 112(d)(4).

The EPA's authority for this action is distinct from the EPA's authority to either allow or prevent sources subject to a NESHAP applicable only to major sources from reclassifying (*i.e.,* the MM2A and OIAI policies). As the EPA explained in the 2020 MM2A final rule, those policies centered on the ''major source'' and ''area source'' definitions under CAA sections 112(a)(1) and (2). By contrast, in this rulemaking, the EPA is acting to fulfill an obligation under CAA section 112(c)(6) that applies regardless of how the Agency addresses

the broader question of whether major CAA section 112 sources may reclassify.

Though not implicated in this action, we believe the broader questions regarding reclassification deserve further consideration. The EPA will consider revisiting these questions in a future action. Legal and policy questions surrounding the 2020 MM2A rule remain unsettled. The EPA finds there is general support in the text, purpose, and legislative history of CAA section 112 for the idea that certain sources should maintain MACT standards even if they reclassify. The EPA believes that allowing sources to increase their emissions after reclassification beyond the level allowed under the relevant NESHAP does not comport with the broader structure of CAA section 112. If such emissions increases were contemplated by the statute, Congress would set MACT standards at either (1) the maximum degree of emissions reduction, or (2) reductions sufficient to bring emissions below the major source threshold, whichever is less stringent. Clearly, Congress did not do so. In fact, Congress acknowledged the possibility of requiring elimination of HAP emissions through MACT standards (CAA section 112(d)(2)(A)). At present, however, the EPA is not addressing this discrepancy. Rather, we are addressing only CAA section 112(c)(6)-affected sources, while we continue to evaluate ways to address the tension between MM2A and the requirements of the rest of CAA section 112.

In the interest of timely addressing what the EPA finds is a particular concern due to the need to fulfill CAA section 112(c)(6), the EPA is finalizing this action to apply only prospectively, *i.e.,* just with respect to sources that have not yet reclassified. The EPA is not at this time requiring sources that have already reclassified to come back into compliance with the relevant NESHAP, as this would involve complicated questions about appropriate compliance schedules among other issues. However, the EPA continues to consider whether additional actions are needed for sources that have already reclassified.

B. Other Aspects of the September 2023 Proposal

1. What did we propose related to reclassification effective date, notifications, and CBI reporting?

In the September 2023 proposal, the EPA proposed that reclassifications that occur after the effective date of this action will be effective upon the date of electronic submittal of the notification to the EPA. Additionally, the EPA proposed to clarify the original intent of the language in 40 CFR 63.9(j) to more clearly indicate that applications for reclassification must be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and contain the information required in 40 CFR 63.9(j)(1) through (4). We also proposed to update the procedures for submittal of confidential business information to include electronic submittal procedures.

2. How have these aspects of the proposed rule changed since proposal?

We received significant public comments on the proposed clarifications related to reclassification effective date and submission of the required notification of reclassification on the interaction between the proposal and state permitting programs. We have determined that these comments warrant further evaluation and are not finalizing these aspects of the proposal in this action. We also received public comments on the clarifications to the notification already required under 40 CFR 63.9(j). These comments and our responses are in section IV.B.3. below. We did not receive public comments on the proposed changes to the CBI submittal procedures.

3. What comments did we receive on the proposed clarifications to notification requirements and procedural issues related to proposed amendatory text?

Comment: One commenter stated that the proposed requirement that reclassifications will only become effective once a permit containing the proposed enforceable requirements is issued and electronic notification is submitted to the EPA through CEDRI, per 40 CFR 63.9(j), is inconsistent with how permits and legal enforceability have historically been understood under the CAA. The commenter recommended that the EPA should not require electronic notification to be an element of determining reclassification. The commenter explained that if applicable major source NESHAP continue to apply until electronic notification is submitted, permits issued to reclassifying sources would need to include a compliance schedule for both the applicable major source NESHAP requirements and the safeguards because both would be applicable until electronic certification could be submitted.

One commenter agreed that sources should notify the Agency of reclassification and such notification is for everyone's benefit as it makes clear which regulatory standards apply to sources upon reclassification.

One commenter agreed that emission and PTE change notifications should be submitted through CEDRI to increase public access to this information. Another commenter requested additional clarification regarding the content and format of the information that would be required to be submitted through CEDRI, and 2 commenters generally supported the proposed notification requirement if it would not be too burdensome. A commenter supported the requirement that the reclassification effective date must match the electronic notification submittal date to the EPA. Otherwise, the commenter expressed concerns that sources would not provide adequate notice before reclassifying, which would be ''neither administrable nor logically tenable'' and could make monitoring efforts more difficult.

Two commenters maintained that the proposed notification requirement would be burdensome and unnecessary and pointed out that the EPA does not currently require this type of reporting for Prevention of Significant Deterioration, Nonattainment New Source Review, or title V opt-outs. In addition, several commenters remarked that reclassified sources are already required to submit notifications of any permit modifications under the title V program, subject to related permitting authority requirements and make reclassification information available to the public through the state permitting process. One commenter warned that the proposed requirement could supersede enforceable permit conditions and result in potential compliance concerns for sources and permitting agencies.

Several commenters disagreed with the proposed requirement that future reclassifications would not be effective until the source electronically submits the notification to the EPA. One commenter contended that the EPA does not have the authority under CAA section 112 and that the EPA did not identify the CAA provision for this proposed requirement. The commenter emphasized that according to the definitions of ''major source'' and ''area source'' in CAA sections 112(a)(1) and (2), a source's HAP PTE is the primary factor for identifying major versus area sources, and 2 commenters indicated that a source's reclassification effective date should coincide with the effective date of the change in PTE. Furthermore, one commenter asserted that since the EPA did not explain the legal basis for the proposed requirement to link reclassification effectiveness to the electronic notification submittal, the

proposed requirement would violate CAA section 307(d)(3).

A commenter objected to the proposed approach that additional requirements would apply to prior reclassifications. The commenter explained that major source status and associated obligations cease after reclassifying to area source status, so the EPA would not have the statutory authority to impose new, additional requirements for sources that already reclassified.

Response: In this final action, the EPA is codifying the clarifying language regarding the information that is already required in the notification that must be submitted pursuant to section 40 CFR 63.9(j) by sources that reclassify. This clarifying language does not substantively change what is already required to be submitted by sources that reclassify from major to area source status. Because this is a clarification of existing requirements there is no added burden related to the clarifications to reporting language made in this final action. Regarding the comments associated to reclassification effective date and submission of the required notification of reclassification and the interaction between the proposal and state permitting programs, we have determined that these comments warrant further evaluation and we are not responding to these comments nor finalizing these aspects of the proposal in this action.

Comment: One commenter states that the EPA did not publish the proposed regulatory language in the **Federal Register**. Instead, the commenter notes that the EPA placed the regulatory language in a separate document in the docket. The commenter asserts that the EPA runs the risk of creating discrepancies between the description of the proposed text in the **Federal Register** and the proposed regulatory text available in the docket. Such discrepancies prevent source owners/operators and other stakeholders, including members of the general public who may not have sufficient familiarity with online dockets, from receiving adequate notice of the EPA's proposed action, thus impairing their ability to provide informed comments. According to the commenter, the EPA also runs the risk of running afoul of its statutory duty under the Administrative Procedure Act to provide the public with adequate notice.

Response: The proposal met all APA and CAA notice-and-comment requirements. Nothing in the APA or the CAA requires the EPA to publish proposed rule text in the **Federal Register**. The APA does not require publication of proposed rule text in the **Federal Register**. Section 553(b)(3) of the APA provides that a notice of proposed rulemaking shall include ''either the terms or substance of the proposed rule or a description of the subjects and issues involved.'' Thus, the APA clearly provides flexibility to describe the ''subjects and issues involved'' as an alternative to inclusion of the ''terms or substance'' of the proposed rule. *See also Rybachek* v. *U.S. EPA,* 904 F.2d 1276, 1287 (9th Cir. 1990) (EPA's failure to propose in advance the actual wording of a regulation does not make the regulation invalid where EPA's discussion of the regulatory provisions ''clearly describe[s] 'the subjects and issues involved.'").

Although in the past the EPA has at times published proposed amendatory regulatory text, the EPA's practice has varied. See, *e.g.,* Hazardous Air Pollutants: Proposed Regulations Governing Constructed, Reconstructed or Modified Major Sources, 59 FR 15504 (April 1, 1994) (''The proposed regulatory text is not included in the **Federal Register** notice, but is available in Docket No. A–91–64 or by request from the EPA contact persons designated earlier in this note. The proposed regulatory language is also available on the Technology Transfer Network (TTN), of EPA's electronic bulletin boards."); Federal Standards for Marine Tank Vessel Loading and Unloading Operations and National Emission Standards for Hazardous Air Pollutants for Marine Tank Vessel Loading and Unloading Operations, 59 FR 25004 (May 13, 1994) (''The proposed regulatory text and other materials related to this rulemaking are available for review in the docket."). Even when we do include the proposed text in the **Federal Register**, we often include a redline version of proposed regulations in the docket for rulemakings to assist the public in understanding the proposed regulatory changes. In our experience, stakeholders find the redline version far more useful than the proposed amendatory language in the format required by the Office of the Federal Register. Although appropriate for the task of revising the CFR, this language can be difficult to assess without the accompanying full regulatory text. Given this and given that we rarely receive comments on the proposed amendatory language or on proposed regulatory language at all, we determined that for rulemakings such as this, it would be more efficient to take the approach here of making both easily accessible but not including the proposed amendatory text in the document.

4. What is the rationale for our final approach for the other aspects of the September 2023 proposal?

In light of the comments received on the proposed clarifications regarding reclassification effective date, we are not finalizing any regulatory changes related to this provision. However, we note that the notification of change in information already required under 40 CFR 63.9(j) for sources that reclassify is not an optional notification and must be submitted within 15 days after reclassification. We are finalizing the clarifications to the required components of a notification of reclassification as proposed. The regulatory language related to this issue does not add any new requirements, rather, the EPA is clarifying what these reports must already contain. We are also finalizing the regulatory language related to submission of CBI as proposed. The EPA did not receive public comments on these proposed changes and the final regulatory language which allows for and provides the procedures for submitting CBI electronically.

V. 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 14094: Modernizing Regulatory Review

This action is a ''significant regulatory action'' as defined in Executive Order 12866, as amended by Executive Order 14094. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for Executive Order 12866 review. Documentation of any changes made in response to the Executive Order 12866 review is available in the docket.

The EPA has not prepared a quantitative analysis of the potential costs and benefits associated with this action because it is highly uncertain which facilities may reclassify in the future and as result of the final rule continue to be subject to CAA 112(c)(6) NESHAP requirements, and no emissions changes are projected to result from the CAA section 112(c)(6) requirements.[15] Instead, these

[15] In the Regulatory Impact Analysis for the 2020 MM2A Final Rule, the EPA assumed in the primary

Continued

requirements maintain the status quo for sources subject to the NESHAP used to meet the EPA's obligations under CAA section 112(c)(6), even if those sources reclassify. The costs incurred for a given facility due to compliance with any individual NESHAP are better attributed to those individual NESHAP rules—rather than the General Provisions of 40 CFR part 63. Any future potential costs for facilities that may choose to voluntarily reclassify will experience cost savings that will outweigh any additional cost of achieving area source status. This final rule does not require any action by facilities that reclassified prior to the effective date of this final rule. Whether any cost or cost savings is incurred by any source choosing to reclassify is highly case specific and we are not providing quantitative estimates of costs in this final rule, however, we have included technical memoranda (*e.g.,* MM2A Cost Memorandum) for the 2020 final MM2A rule and the regulatory impact analysis (RIA) from that rulemaking in the docket for this action to provide illustrative examples of the types of costs and costs savings that may occur due to reclassifications. While the EPA does not expect this action to directly impact the level of control of any particular NESHAP standards, this final rule will ensure that HAP emissions reductions of the specific pollutants addressed in CAA section 112(c)(6) are achieved, and the corresponding public health and environmental benefits from decreased HAP emissions, are maintained at sources that reclassify from major sources of HAP to area sources of HAP.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. The final amendments to the General Provisions relate to voluntary actions taken by a source after consideration of the net impacts of this action. Therefore, this action would not impose any new information collection burden. The General Provisions do not themselves require any reporting and recordkeeping activities, and no information collection request (ICR) was submitted in connection with their original promulgation or their subsequent amendment. Any recordkeeping and reporting requirements are imposed only through the incorporation of specific elements of the General Provisions in the individual NESHAP, which are promulgated for particular source categories that have their own ICRs. The PRA costs for sources that reclassify will be properly accounted for in the ICRs for the NESHAP they were subject to. The PRA costs for sources who must remain subject to a particular NESHAP or NESHAP are properly accounted for in the ICRs for the NESHAP they remain subject to.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the 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 [16] of small entities because the rule has no net burden on the small entities subject to the rule. Small entities that are subject to major source NESHAP requirements would not be required to take any action under this final rule; any action a source takes to reclassify as an area source for those permitted to do so would be voluntary. We expect that sources that reclassify will do so in order to experience expected cost savings that will outweigh any additional expected cost of achieving area source status. This final rule only affects potential voluntary future decisions on the part of sources. We cannot project how many sources will reclassify in the future, or whether those facilities will be owned by small entities. This final rule will not prevent any sources from reclassifying who would otherwise be eligible to do so. This action solely requires that sources subject to certain NESHAP must remain subject to those NESHAP, even if they reclassify. This final rule imposes no additional costs or requirements for sources that have already reclassified. The final MM2A rule already required electronic notification to the EPA and we are not requiring those sources who have already submitted notifications to resubmit their notifications.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. This final rule does not require any action on the part of any sources or by tribal governments. This action solely requires that sources subject to certain NESHAP must remain subject to those NESHAP, even if they reclassify. Thus, Executive Order 13175 does not apply to this action. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA consulted with tribal officials during the development of this action. A summary of that consultation is provided in the docket for this rule (Docket ID No.: EPA–HQ–OAR–2023–0330).

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

The EPA interprets Executive Order 13045 as applying only to regulatory actions considered significant under section 3(f)(1) of Executive Order 12866 and 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 Executive Order 13045. This action is not subject to Executive Order 13045 because it does not directly regulate any emission source and will not have any direct impact on children's health. The emissions reductions achieved by individual NESHAP are properly accounted for in those individual NESHAP rather than the General Provisions. This action will not change the level of emissions reductions achieved by those NESHAP. While we

scenario that all facilities under 75% of the major source HAP emissions threshold that could potentially reclassify would do so over a 5-year time period from promulgation (2,700 facilities). While we are still within that time frame, the EPA has not seen nearly that many reclassifications occuring since the rule was promulgated. At the time of this final rule, around 200 facilities have reclassified. This represents over 90% fewer reclassifications than our illustrative analysis included in the 2020 final rule. A list of facilities that have reclassified from major source to area source status at the time of proposal is available in the docket for this action.

[16] We note that during development of the 2020 final rule, an analysis of 69 facilities that had reclassified found that 28 of those facilities were owned by 28 small entities based on the Small Business Administration (SBA) small business size standards at the time. This analysis is included in the public docket for the 2020 final rule (Docket ID No.: EPA–HQ–OAR–2019–0282–0650).

do not expect this action to have any direct impact on children's health, continued compliance with NESHAP used for CAA section 112(c)(6) by a source that reclassifies will provide continued protection achieved by those NESHAP(s) that the source remains subject to.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The final amendments to the General Provisions in this action are procedural changes and do not impact the technology performance nor level of control of the NESHAP governed by the General Provisions.

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 and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. We are unable to quantitatively estimate the potential environmental justice (EJ) impact of this rule because the final amendments to the General Provisions are procedural changes and do not impact the technology performance nor level of control of the NESHAP governed by the General Provisions.

While the EPA does not expect this action to directly impact the level of control of any particular NESHAP standards, this final rule will assure that emissions reductions of persistent, bioaccumulative HAP, and the corresponding public health and environmental benefits from decreased HAP emissions are maintained for all populations, including communities with EJ concerns.

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

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

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 63 of title 40, chapter I, of the Code of Federal Regulations as follows:

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

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

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

Subpart A—General Provisions

■ 2. Amend § 63.1 by adding paragraph (c)(6)(iii).

§ 63.1 Applicability.

* * * * *

(c) * * *

(6) * * *

(iii) After September 10, 2024, affected sources subject to the following 40 CFR part 63 subparts on September 10, 2024, must remain subject to those subparts, and any modifications thereafter, even if the source becomes an area source by reducing both its actual emissions and potential to emit hazardous air pollutants to below major source thresholds: F, G, H, I, L, R, X, CC, GG, II, JJ, KK, LL, MM, EEE, HHH, JJJ, LLL, RRR, UUU, FFFF, JJJJ, MMMM, PPPP, ZZZZ, CCCCC, DDDDD, FFFFF, IIIII, LLLLL, YYYYY, JJJJJJ, EEEEEEE.

* * * * *

■ 3. Amend § 63.9 by:

■ a. Revising paragraph (j) and paragraph (k) introductory text; and

■ b. Adding paragraph (k)(3).

The revisions and addition read as follows:

§ 63.9 Notification requirements.

* * * * *

(j) *Change in information already provided.* Any change in the information already provided under this section shall be provided to the Administrator within 15 calendar days after the change. The owner or operator of a major source that reclassifies to area source status is also subject to the notification requirements of this paragraph. The owner or operator may submit the application for reclassification with the regulatory authority (*e.g.,* permit application) according to paragraph (k) of this section to fulfill the requirements of this paragraph, but the information required in paragraphs (j)(1) through (4) of this section must be included. A source which reclassified after January 25, 2018, and before January 19, 2021, and has not yet provided the notification of a change in information is required to provide such notification no later than February 2, 2021, according to the requirements of paragraph (k) of this section. Beginning January 19, 2021, the owner or operator of a major source that reclassifies to area source status must submit the notification according to the requirements of paragraph (k) of this section. A notification of reclassification must contain the following information:

(1) The name and address of the owner or operator;

(2) The address (*i.e.,* physical location) of the affected source;

(3) An identification of the standard being reclassified from and to (if applicable); and

(4) Date of effectiveness of the reclassification.

(k) *Electronic submission of notifications or reports.* If you are required to submit notifications or reports following the procedure specified in this paragraph (k), you must submit notifications or reports to the EPA via the EPA's Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The notification or report must be submitted by the deadline specified. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report or notification, you must submit the information claimed to be CBI according to the procedures in paragraph (k)(3) of this section.

* * * * *

(3) If you wish to assert a CBI claim for some of the information submitted under paragraph (k) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA following the procedures in paragraphs (k)(3)(i) through (iv) of this section. Where a subpart specifies a

specific file format for the report or notification for which you are asserting a claim of CBI, the complete file that you submit under this paragraph (k)(3) must be in the same file format specified in the subpart.

(i) Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data are not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(ii) You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described in paragraph (k) of this section.

(iii) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings. Electronic Reporting Tool (ERT) files should be flagged to the attention of the Group Leader, Measurement Policy Group; all other files should be flagged to the attention of the Sector Lead for the subpart for which you are submitting your notification or report. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(iv) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: U.S. EPA, Attn: OAQPS Document Control Officer, Mail Drop: C404–02, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, NC 27711. ERT files should also be flagged to the attention of the Group Leader, Measurement Policy Group; all other files should also be flagged to the attention of the Sector Lead for the subpart for which you are submitting your notification or report. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

[FR Doc. 2024–20074 Filed 9–9–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2021–0149; FXES1113090FEDR–245–FF09E21000]

RIN 1018–BG02

Endangered and Threatened Wildlife and Plants; Technical Corrections for Seven Species on the List of Endangered and Threatened Wildlife and Six Species on the List of Endangered and Threatened Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; technical amendments.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the correction of errors in the Lists of Endangered and Threatened Wildlife and Plants (Lists) made in previous publications. These corrections of publication errors are editorial in nature and involve no substantive changes to the Lists or any applicable regulations.

DATES: This rule is effective September 10, 2024.

FOR FURTHER INFORMATION CONTACT: Rachel London, Manager, Branch of Delisting and Foreign Species, U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2491. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

The List of Endangered and Threatened Wildlife and the List of Endangered and Threatened Plants (''Lists''), which are set forth in title 50 of the Code of Federal Regulations (CFR) at §§ 17.11 and 17.12, respectively, contain certain information on the endangered species and threatened species federally listed pursuant to the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The information in the Lists includes each listed species' common name and scientific name, the geographic area where the species is listed for purposes of the ESA, its listing status (*e.g.,* endangered), and nonregulatory information providing citations to applicable **Federal Register** publications and regulations.

The regulations at 50 CFR 17.11(c) and 17.12(b) direct us to use the most recently accepted scientific name of any wildlife or plant species, respectively, that we have determined to be an endangered or threatened species.

Purpose of Final Rule

This final rule revises the Lists at 50 CFR 17.11(h) and 17.12(h) to correct the editorial errors identified below under Summary Table of Editorial Corrections. These corrections are purely administrative and are based on previously published rulemaking documents.

We are publishing this rule without a prior proposal because we previously provided a public comment period on the proposed rules for these taxa and because this is a noncontroversial action that is in the best interest of the public and that should be undertaken in as timely a manner as possible. None of these changes are regulatory in nature; they are for accuracy and clarity. These revisions do not alter species' protections or status in any way. Any actions altering a species' protection or status would require a separate rulemaking action following the procedures of 50 CFR part 424.

Summary Table of Editorial Corrections

The table below identifies the editorial corrections we are making in this rule. The table provides the current listing information for each species to be corrected, the type of error and a description of the correction we are making, and the correction itself.

Where the table refers to the ''2016 Reformatting'' that means an August 4, 2016, final rule (81 FR 51550) that we published to update the format of the Lists. The purpose of the 2016 Reformatting was to make the Lists easier to understand by changing the format to reflect current practices and standards, to correct identified errors in entries such as footnotes and spelling, and to update common names, among other changes. Following the 2016 Reformatting's publication, however, we identified editorial errors in the updated Lists.

Where the table refers to the ''1983 Republication'' that means a July 27, 1983, final rule (48 FR 34182) in which

position 38°50′52.4″ N, 077°01′10.9″ W, including the waters of the Washington Channel; (3) the area comprising Zone 3, all navigable waters of the Potomac River, from shoreline to shoreline, bounded to the north by a line drawn from the Virginia shoreline at Ronald Reagan Washington National Airport, at 38°51′21.3″ N, 077°02′00.0″ W, eastward across the Potomac River to the District of Columbia shoreline at Hains Point at position 38°51′24.3″ N, 077°01′19.8″ W, thence southward across the Anacostia River to the District of Columbia shoreline at Giesboro Point at position 38°50′52.4″ N, 077°01′10.9″ W, and bounded to the south by the Woodrow Wilson Memorial (I–95/I–495) Bridge, at mile 103.8.

As specified in § 165.508 (b), during the enforcement period, entry into or remaining in the zone is prohibited unless authorized by the Coast Guard Captain of the Port Maryland-National Capital Region. Public vessels and vessels already at berth at the time the security zone is implemented do not have to depart the security zone. All vessels underway within the security zone at the time it is implemented are to depart the zone at the time the security zone is implemented. To seek permission to transit the zone, the Captain of the Port Maryland-National Capital Region can be contacted at telephone number (410) 576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Coast Guard vessels enforcing this zone can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). The Coast Guard may be assisted by other Federal, state or local law enforcement agencies in enforcing this regulation. If the Captain of the Port or his designated on-scene patrol personnel determines the security zone need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to suspend enforcement and grant general permission to enter the security zone.

This notification of enforcement is issued under authority of 33 CFR 165.508 and 5 U.S.C. 552(a). In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: January 2, 2025.

Patrick C. Burkett,

Captain, U.S. Coast Guard, Captain of the Port, Sector Maryland-National Capital Region.

[FR Doc. 2025–00013 Filed 1–6–25; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2023–0330; FRL–4908.3–02–OAR]

Review of Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is making corrections to the Review of Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act (CAA) final rule that appeared in the **Federal Register** on September 10, 2024. Following publication of this final rule, the EPA discovered an inadvertent typographical error in the regulatory text and is correcting the error in this action.

DATES: The final rule is effective on January 7, 2025.

ADDRESSES: The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2023–0330. 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 electronically through *https://www.regulations.gov/.*

FOR FURTHER INFORMATION CONTACT: Mr. John Kennedy, Mail Drop: D243–02, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–1548; and email address: *kennedy.john@epa.gov.*

I. Summary of Final Action

The EPA is making a correction to the Review of Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act (CAA) final rule that appeared in the **Federal Register** on September 10, 2024 (89 FR 73293). In the September 10, 2024, final rule, the EPA amended 40 CFR 63.1(c)(6) to include a requirement that sources subject to certain major source NESHAP used to meet the Agency's obligations under the CAA for seven specific persistent and bioaccumulative pollutants must remain subject to those NESHAP even if the sources reclassify to area source status.

Following publication of this final rule, the EPA discovered an inadvertent typographical error in the regulatory text in 40 CFR 63.1(c)(6) and is correcting the error in this action. Specifically, as finalized on September 10, 2024, the regulatory text in 40 CFR 63.1(c)(6)(iii) included a reference to 40 CFR part 63 subpart HHH (National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities) instead of the correct reference, 40 CFR part 63 subpart MMM (National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production). This error was included in the table of CAA 112(c)(6) categories placed in the docket for the Review of Final Rule Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act (docket ID: EPA–HQ–OAR–2023–0330–0033). The table included the correct source category rule name, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production, but instead of referencing the correct regulation reference to 40 CFR part 63 subpart MMM, it referenced 40 CFR part 63 subpart HHH. This error found in the table included in the docket was cross referenced in the regulatory text of the final rulemaking. This action corrects this inadvertent typographical error by removing the reference to 40 CFR part 63 subpart HHH from 40 CFR 63.1(c)(6)(iii) and adding the correct reference to 40 CFR part 63 subpart MMM.

II. Rulemaking Procedures

The EPA's authority for the rulemaking procedures followed in this action is provided by the Administrative Procedure Act (APA), 5 U.S.C. 553. In general, an agency issuing a rule must provide prior notice and an opportunity for public comment, but APA section 553(b)(B) includes an exemption from notice-and-comment requirements ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' This action is being issued without prior notice or opportunity for public comment because the EPA finds that the APA ''good cause'' exemption from notice-and-comment requirements applies here.

Following notice-and-comment procedures is unnecessary for this action. This action corrects a

typographical error to correct a reference in 40 CFR 63.1(c)(6)(iii) to 40 CFR part 63 subpart MMM instead of 40 CFR part 63 subpart HHH. It is critical to timely correct the identified error to avoid confusion.

This action is effective immediately upon publication. The APA typically requires publication of a final rule to precede its effective date by at least 30 days unless, as relevant here, the agency finds good cause to make the rule effective sooner. APA section 553(b)(B). Under APA section 553(d), these technical corrections are both necessary and beneficial to regulated entities in understanding and complying with the final rule's requirements. Further, because this rule does not impose any new regulatory requirements, the regulated community does not need time to prepare for it to come into effect. *See Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (D.C. Cir. 1996) (in determining whether good cause exists to make a rule immediately effective, 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'').

Good cause exists for this rule to be made immediately effective. The EPA has balanced the necessity for immediate implementation against the benefits of delaying implementation. Because this rule makes a typographical correction to a rule that has already been promulgated, the public is aware of the content of the rule. Making the corrections effective immediately will make the regulatory text consistent with what the proposed rule and the preamble to the final rule have described.

List of Subjects in 40 CFR Part 63

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

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency is amending title 40, chapter I, part 63 of the Code of Federal Regulations as follows:

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

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

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

Subpart A—General Provisions

■ 2. Amend § 63.1 by revising paragraph (c)(6)(iii) as follows:

§ 63.1 Applicability.

* * * * *

(c) * * *

(6) * * *

(iii) After September 10, 2024, affected sources subject to the following 40 CFR part 63 subparts on September 10, 2024, must remain subject to those subparts, and any modifications thereafter, even if the source becomes an area source by reducing both its actual emissions and potential to emit hazardous air pollutants to below major source thresholds: F, G, H, I, L, R, X, CC, GG, II, JJ, KK, LL, MM, EEE, JJJ, LLL, MMM, RRR, UUU, FFFF, JJJJ, MMMM, PPPP, ZZZZ, CCCCC, DDDDD, FFFFF, IIIII, LLLLL, YYYYY, JJJJJJ, EEEEEEE.

* * * * *

[FR Doc. 2024–31226 Filed 1–6–25; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0155; FRL–8391–01–OAR]

RIN 2060–AV44

National Emission Standards for Hazardous Air Pollutants: National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final determination.

SUMMARY: This action finalizes the Clean Air Act (CAA) technology review (TR) conducted for the commercial and industrial dry cleaning facilities using perchloroethylene (PCE) as the cleaning solvent (PCE Dry Cleaning) source categories regulated under National Emission Standards for Hazardous air Pollutants (NESHAP). This final rule does not finalize the changes made at proposal and makes no amendments to the current NESHAP given the recently finalized action under the Toxic Substance Control Act (TSCA) which has instituted a 10-year phaseout of the use of PCE for dry cleaning.

DATES: This action is effective on January 7, 2024.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2005–0155. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact U.S. EPA, Attn: Reginald Goodwin, Mail Drop: D243–04, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–5313; and email address: *goodwin.reginald@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this notice the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CFR Code of Federal Regulations
EPA U.S. Environmental Protection Agency
FR Federal Register
GACT generally available control technology
HAP hazardous air pollutants(s)
LDAR leak detection and repair
MACT maximum achievable control technology
NAICS North American Industry Classification System
NESHAP National Emission Standards for Hazardous Air Pollutants
NTTAA National Technology Transfer and Advancement Act

EPA-APPROVED DELAWARE SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Additional explanation
* *	*	*	*	* *
Calpine Mid-Atlantic Generation, LLC—Christiana Energy Center.	AQM–003/00317 (Renewal 5).	12/19/2023	October 22, 2024 [INSERT **FEDERAL REGISTER** CITATION].	Approved via Docket EPA–R03–OAR–2023–0301, as an element of Delaware's August 8, 2022, Regional Haze Plan from 2018–2028 and March 7, 2024, supplement.
Calpine Mid-Atlantic Generation, LLC—Delaware City Energy Center.	AQM–003/00005 (Renewal 5).	12/19/2023	October 22, 2024 [INSERT **FEDERAL REGISTER** CITATION].	Approved via Docket EPA–R03–OAR–2023–0301, as an element of Delaware's August 8, 2022, Regional Haze Plan from 2018–2028 and March 7, 2024, supplement.
Calpine Mid-Atlantic Generation, LLC—West Energy Center.	AQM–003/00006 (Renewal 5).	12/19/2023	October 22, 2024 [INSERT **FEDERAL REGISTER** CITATION].	Approved via Docket EPA–R03–OAR–2023–0301, as an element of Delaware's August 8, 2022, Regional Haze Plan from 2018–2028 and March 7, 2024, supplement.

* * * * * (e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	*	*	* *	*
Regional Haze Plan from 2018–2028.	State-wide	8/8/2022	October 22, 2024 [INSERT **Federal Register** CITATION].	

[FR Doc. 2024–24196 Filed 10–21–24; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2023–0406; FRL–10652–02–OAR]

RIN 2060–AV97

Removal of Affirmative Defense Provisions From the National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production Facility and Natural Gas Transmission and Storage Facility Source Categories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing amendments to the National Emission Standards for Hazardous Air Pollutants for the oil and gas industry issued under the Clean Air Act (CAA). Specifically, the EPA is finalizing removal of the affirmative defense provisions in the National Emission Standards for Hazardous Air Pollutants for both the Oil and Natural Gas Production source category and the Natural Gas Transmission and Storage source category.

DATES: This final rule is effective October 22, 2024.

ADDRESSES: The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2023–0406. 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 as pdf versions that can only be accessed on the EPA computers in the docket office reading room. Certain databases and physical items cannot be downloaded from the docket but may be requested by contacting the docket office at 202–566–1744. The docket office has up to 10 business days to respond to these requests. With the exception of such material, publicly available docket materials are available electronically at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Matthew Witosky, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–2865; email address: *witosky.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

I. General Information
  A. Does this action apply to me?
  B. Where can I get a copy of this document and other related information?
  C. Judicial and Administrative Review
II. Final Rule Summary
III. Rationale for the Final Rule
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V. Summary of Cost, Environmental, and Economic Impacts
  A. What are the affected sources?
  B. What are the air quality impacts?
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VI. Statutory and Executive Order Reviews
  A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review
  B. Paperwork Reduction Act (PRA)

C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act (NTTAA)
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All
K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

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

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

Source category	NAICS [1]	NAICS code
Industry	211111	Crude Petroleum and Natural Gas Extraction.
	211112	Natural Gas Liquid Extraction.
	221210	Natural Gas Distribution.
	486110	Pipeline Distribution of Crude Oil.
	486210	Pipeline Transportation of Natural Gas.
Federal Government		Not affected.
State/Local/Tribal Government		Not affected.

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

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in the regulations. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

In addition to being available in the docket, at Docket ID No. EPA–HQ–OAR–2023–0406 located at *https://www.regulations.gov/*, an electronic copy of this final rulemaking is available on the internet at *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations.* Following signature by the EPA Administrator, the EPA will post a copy of this final rulemaking at this same website. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final rulemaking.

C. Judicial and Administrative Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final rulemaking is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by December 23, 2024. Under CAA section 307(b)(2), the requirements established by this final rulemaking may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements. Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment, (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.''Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC West Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania.

II. Final Rule Summary

In a proposal published December 1, 2023 (88 FR 83889), the EPA proposed to remove the provisions of an affirmative defense to civil penalties in the National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production source category and the Natural Gas Transmission and Storage source category, 40 CFR 63.762(d) and 63.1272(d) in 40 CFR part 63, subparts HH and HHH, respectively. The EPA is finalizing removal of these affirmative defense provisions as proposed.

III. Rationale for the Final Rule

In 1998, the EPA promulgated National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production Facility and Natural Gas Transmission and Storage Facility Source Categories, 40 CFR part 63, subparts HH and HHH (64 FR 32610; June 17, 1999) (''Oil and Gas NESHAP''). In 2012, the EPA amended the Oil and Gas NESHAP (77 FR 49490; August 16, 2012). The 2012 amendments included provisions allowing owners and operators to assert an affirmative defense to civil penalties for violations caused by malfunctions. See 40 CFR 63.762 and 63.1672, *Id.* at 49569 and 49585. A malfunction is a sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner. See 40 CFR 63.2. As defined in 40 CFR part 63, subparts HH and HHH, ''affirmative defense'' means, ''in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.'' See 40 CFR 63.761 and 63.1271. The EPA established an affirmative defense to civil penalties in 40 CFR part 63, subparts HH and HHH in an effort to create a system that incorporates some flexibility, recognizing that there is a

tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source (77 FR 49508). Under these affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed.

In 2014, the United States Court of Appeals for the District of Columbia Circuit (the D.C. Circuit Court) vacated the affirmative defense in one of the EPA's CAA section 112 regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in the CAA section 112 rule establishing emission standards for portland cement kilns) (*NRDC*). Like the affirmative defense provisions in the Oil and Gas NESHAP, the affirmative defense at issue in *NRDC* similarly provided that civil penalties may be assessed only if violators ''fail to meet [their] burden of proving all of the requirements in the affirmative defense.'' 749 F.3d at 1062; see also 78 FR 10039, § 63.1344. The D.C. Circuit Court found that the EPA lacked authority to establish an affirmative defense for penalties in private civil suits brought under CAA section 304(a) and held that the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. 749 F.3d at 1063. Specifically, the D.C. Circuit Court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' *Id.* (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.'').[1]

In light of the *NRDC* decision, the EPA proposed and is now finalizing removal of the affirmative defense provisions from the Oil and Gas NESHAP which, like the rule at issue in the *NRDC* decision, is also a CAA section 112 rule. These provisions imply legal authority that the D.C. Circuit Court has stated that the EPA does not have.[2] As the EPA explained in the proposed rule, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate (88 FR 83889, 83891). Further, as the D.C. Circuit Court recognized, in a citizen enforcement action brought under CAA section 304(a), the courts have the discretion to consider any defense raised and determine whether penalties are appropriate. *NRDC,* 749 F.3d at 1064 (arguments that a violation was caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.[3]

IV. Response to Comments

EPA received one comment on the proposal. Below is a summary of the comment and the EPA response thereto.

Comment: The commenter requests that the EPA retain the affirmative defense provisions in the Oil and Gas NESHAP. The commenter first argues that the decision in *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014), which the EPA has identified as the basis of its proposed rule, does not compel the EPA to remove the affirmative defense at issue because the affirmative defense provision at issue in *NRDC* provided defense against civil penalties after liability has been established; the commenter claims that, in contrast, the affirmative defense in subparts HH and HHH provides for defense against liability, not civil penalties, and is therefore unaffected by the *NRDC* decision. The commenter argues that, to the extent the EPA is asserting that there is no distinction between an affirmative defense to liability and an affirmative defense to penalties at issue in NRDC, such a position is ''ill-considered'' and ''wholly unsupported.''

The commenter next argues that, even if the EPA were to remove the affirmative defense in these two NESHAP from judicial proceedings, the EPA should retain it in administrative enforcement matters. In support, the commenter first notes that the *NRDC* decision addressed only judicial proceedings and therefore does not compel the EPA to remove affirmative defense from administrative enforcement matters. Next, the commenter disputes the EPA's assertion that ''such an affirmative defense is not necessary,'' claiming that the defense ''provides an essential measure of flexibility to sources facing real challenges with malfunctions in their operations that are beyond their control.'' The commenter expresses concern that ''without the specificity provided by the regulation, the ability to raise these real-world practical challenges is left to the unspecified 'discretion' of EPA enforcement officials or the presiding officer (an EPA employee) in an administrative proceeding.'' The commenter claims the EPA recognized such an approach as lacking a formalized approach and regulatory clarity, citing the proposal preamble describing the EPA's position at the time it established the affirmative defense at issue (88 FR 83891). The commenter further claims that both the EPA and the courts have ''long understood that it is fundamentally unfair to penalize a source for unavoidable emissions,'' citing *Essex Chem. Corp.* v. *Ruckelshaus,* 486 F.2d 427, 433 (D.C. Cir. 1973).[4] The commenter argues that ''it would be unjust to penalize a source for emissions that were beyond its control as this neither serves the purposes of punishment nor deterrence.'' The commenter claims that the proposed rule ''provides no explanation as to why, after decades of finding an affirmative defense for emergency-related emissions to be necessary, justice no longer requires it.''

The commenter then notes the EPA's explanation in the proposed rule that the ''assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent'' but asks that the EPA reconsider. The commenter claims that the EPA's reasoning, which refers to CAA section

[1] The D.C. Circuit Court's reasoning in *NRDC* focuses on civil judicial actions. The D.C. Circuit Court noted that ''EPA's ability to determine whether penalties should be assessed for CAA violations extends only to administrative penalties, not to civil penalties imposed by a court.'' *Id.*

[2] EPA notes that in 2012, concurrent with the review of 40 CFR part 63, subparts HH and HHH, EPA promulgated New Source Performance Standards for Crude Oil and Natural Gas Facilities, 40 CFR part 60, subpart OOOO (''NSPS OOOO''), which also included an affirmative defense. See 77 FR 49557. In a subsequent rulemaking following the *NRDC* decision, the EPA removed the affirmative defense provision from NSPS OOOO. 79 FR 79018 (Dec. 31, 2014).

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

[4] The case involved challenges to various aspects of an EPA regulation establishing new source performance standards for certain stationary source categories, including ''equal'' standards during normal operations and periods of startup, shutdown and malfunction. *Id.* The D.C. Circuit Court remanded the rule record to the EPA on the ''equal standard,'' noting that ''variant provisions appear necessary to preserve the reasonableness of the standards as a whole and that the record does not support the 'never to be exceeded' standard currently in force.'' *Id.*

113(e) specifying ''penalty assessment criteria'' for both the EPA and the courts to consider, as appropriate (88 FR 83891, footnote 3), is ''wrong and not sound policy.'' In support, the commenter reiterates its argument that ''[f]oremost, as noted above, the affirmative defenses at issue go to questions of liability, not civil penalties. Thus, whether the penalty criteria in CAA section 113(e) are the same or not is entirely beside the point in deciding whether an affirmative defense to liability should be retained.'' The commenter further argues that ''even if the affirmative defense here goes to the question of penalties, there is no principle of 'consistency' between judicial and administrative proceedings.'' The commenter cites CAA section 113(d) (''Administrative Assessment of Civile Penalties''), specifically section 113(d)(2)(B) which ''affords the EPA entirely separate authority to 'compromise, modify, or remit, with or without conditions, any administrative penalty,' '' as evidence that ''Congress did not envision, let alone require, that judicial and administrative proceedings 'should be consistent.' '' The comment faults the proposed rule for ''[giving] no consideration to the discretion provided under section 113(d), in particular the authority 113(d)(2)(B).'' The Commenter argues that ''by contrast, civil judicial proceedings are bound by the common rules of civil judicial procedure.''

Lastly, the commenter argues that there ''is [not] any EPA precedent to consider *only* factors listed in CAA section 113(e) when determining administrative penalties, as that would contradict EPA's current administrative penalty policies'' [*Emphasis added*]. The commenter cites to several EPA decisions and policies that the commenter claims did not rely on CAA section 113(e) criteria in determining administrative penalties. According to the commenter, ''EPA has used policies governing administrative penalties for decades without any consideration of CAA section 113(e) and it continues to do so today.'' The commenter argues that ''EPA's interpretation of how section 113(e) limits its own authority appears to be arbitrarily selective in this instance'' because ''the Proposed Rule does not consider these contradictory practices and gives no indication that EPA will now abandon these policies and guidance documents in administrative proceedings.''

Response: For the reasons explained below, none of the commenter's arguments justify retaining the affirmative defense provisions in the Oil and Gas NESHAP. The commenter's main argument is that the affirmative defense in the Oil and Gas NESHAP provides for a defense against *liability* and, as such, is unaffected by the *NRDC* decision that held unlawful an affirmative defense to *penalties* in private civil suits. However, the commenter's interpretation of the affirmative defense in the Oil and Gas NESHAP is clearly incorrect as it contradicts the clear language of the affirmative defense in these NESHAP at 40 CFR 63.762(d) and 63.1272(d), which specifically state that ''you may assert an affirmative defense *to a claim for civil penalties* for violations of such standards that are caused by malfunction as defined at 40 CFR 63.2. *Appropriate penalties* may be assessed if you fail to meet your burden of proving all of the requirements in the affirmative defense.'' [*Emphasis added*]. Furthermore, this is the same wording as the affirmative defense in *NRDC,*[5] and the commenter does not explain how it interprets the same wording differently. We therefore find this argument to be totally without merit.[6]

The EPA is also unpersuaded by the commenter's argument that the EPA should retain the affirmative defense in the Oil and Gas NESHAP in administrative cases even if not in judicial proceedings. The commenter claims that the EPA's view that ''assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent'' is based on CAA section 113(e) and therefore flawed. The commenter argues that CAA section 113(e), which requires both the Administrator and the courts to take specified criteria into consideration when assessing penalties, is ''entirely beside the point in deciding whether to retain the affirmative defense to liability'' that the commenter claims is in Oil and Gas NESHAP. However, as discussed above, the affirmative defense in the Oil and Gas NESHAP goes to penalty assessment; accordingly, the commenter's argument that CAA section 113(e) is not relevant is incorrect.

The EPA also disagrees with the commenter's argument that retaining the affirmative defense in administrative cases is necessary in light of CAA section 113(d), which the commenter claims leaves ''the ability to raise these real-world practical challenges . . . to the unspecified 'discretion' of EPA enforcement officials or the presiding officer (an EPA employee) in an administrative proceeding.'' But Congress already rejected this view; in enacting CAA section 113(d), Congress was clearly confident with entrusting the EPA with broad authority and discretion in assessing penalty. Further, as the EPA explained in the proposal preamble, ''if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate.'' 88 FR 83891. In any event, the commenter appears to be expressing a hypothetical concern, as the commenter has not claimed or provided any information indicating that the EPA prohibited or otherwise limited one's ability to raise ''real-world concerns'' in the penalty assessment stage during an administrative proceeding.

Lastly, contrary to the commenter's assertion, the EPA does not claim that *only* factors listed in CAA section 113(e) may be considered when determining administrative penalties, nor is there inconsistency between the EPA's interpretation of CAA section 113(e) (as explained in this rulemaking) and the EPA's long-standing policies and practices in penalty assessment. CAA section 113(e) makes clear that, in determining the amount of penalty, the EPA and the courts are not limited to consider only the factors enumerated in that section; they shall also consider ''*such other factors as justice may require.*'' Accordingly, to the extent that the EPA has focused on other factors, as the commenter claims, the EPA's action is in accordance with the CAA. For the same reason, the EPA rejects the commenter's accusation that the EPA has been determining administrative penalties ''without any consideration of CAA section 113(e);'' the commenter also offers no evidence that the EPA declined to consider the factors in CAA section 113(e).

For the reasons stated above, the EPA finds that the commenter has not justified retaining the affirmative defense in the Oil and Gas NESHAP.

[5] See 749 F.3d at 1062, which identifies 40 CFR 63.1344 at 78 FR 10039 as the affirmative defense at issue in *NRDC.* 40 CFR 63.1344, as promulgated in that 2013 rule, provided that ''[i]n response to an action to enforce the standards . . . you may assert an affirmative defense *to a claim for civil penalties* for violations of such standards that are caused by malfunction, as defined at 40 CFR 63.2. *Appropriate penalties* may be assessed if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.'' [*Emphasis added*].

[6] The commenter also claims that the EPA is incorrect *to the extent* it is asserting that there is no distinction between affirmative defense to liability and affirmative defense to penalties. The EPA did not make such assertion. The proposed rule does not address an affirmative defense to liability as that is not the regulatory provision at issue in this rulemaking.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

Sources subject to subparts HH and HHH under 40 CFR part 63, as amended in 1990, section 112.

B. What are the air quality impacts?

There are no air quality impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or state agencies to enforce standards.

C. What are the cost impacts?

There are no cost impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in the Oil and Gas NESHAP. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or state agencies to enforce standards. The EPA estimated a small administrative burden to report deviations from standards as a result of malfunctions that included the option for an owner or operator to offer an affirmative defense. The removal of the affirmative defense provisions does not affect that burden because sources will still be required to report malfunctions that result in a failure to meet the standards. Since the option to invoke an affirmative defense was voluntary, there may be a negligible cost savings for reporting malfunctions by removing these provisions.

D. What are the economic impacts?

There are no economic impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in the Oil and Gas NESHAP. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or state agencies to enforce standards. The EPA estimated a small administrative burden to report deviations from standards as a result of malfunctions that included the option for an owner or operator to offer an affirmative defense. The removal of the affirmative defense provisions does not affect that burden because sources will still be required to report malfunctions that could have resulted in a failure to meet the standards. Since the option to invoke an affirmative defense was voluntary, there may be a negligible cost savings for reporting malfunctions by removing these provisions.

E. What are the benefits?

There are no environmental benefits associated with this action. The affirmative defense provisions did not affect the stringency of the standards in the Oil and Gas NESHAP. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or state agencies to enforce standards.

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for review under Executive Order 12866.

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 2060–0417. The removal of provisions for affirmative defense does not change any mandatory recordkeeping, reporting, or other activity previously established under prior final rules.

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. There are no economic impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA's Policy on Children's Health also does not apply.

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 and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on communities with environmental justice concerns.

The EPA believes that this action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This action does not change the underlying standards that have an impact on human health and 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 in 40 CFR Part 63

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

Michael S. Regan,

Administrator.

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

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

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

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

Subpart HH—National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities

■ 2. Section 63.760 is amended by adding paragraph (i) to read as follows:

§ 63.760 Applicability and designation of affected source.

* * * * *

(i) Emissions standards in this subpart apply at all times.

§ 63.761 [Amended]

■ 3. Section 63.761 is amended by removing the definition ''Affirmative defense''.

§ 63.762 [Removed and Reserved]

■ 4. Section 63.762 is removed and reserved.

Subpart HHH—National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities

■ 5. Section 63.1270 is amended by adding paragraph (g) to read as follows.

§ 63.1270 Applicability and designation of affected source.

* * * * *

(g) Emissions standards in this subpart apply at all times.

§ 63.1271 [Amended]

■ 6. Section 63.1271 is amended by removing the definition ''Affirmative defense''.

§ 63.1272 [Removed and Reserved]

■ 7. Section 63.1272 is removed and reserved.

[FR Doc. 2024–24288 Filed 10–21–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 221206–0261]

RIN 0648–BN32

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2023–2024 Biennial Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to management measures in commercial groundfish fisheries. This action is intended to allow fishing vessels to access more abundant groundfish stocks while protecting rebuilding stocks.

DATES: This final rule is effective October 22, 2024.

ADDRESSES: *Electronic Access:* This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's website at *https://www.pcouncil.org/.*

FOR FURTHER INFORMATION CONTACT: Dr. Sean Matson, phone: 206–526–6187 or email: *sean.matson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish seaward of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for 2-year periods (biennia). NMFS published the final rule to implement harvest specifications and management measures for the 2023–2024 biennium for most species managed under the PCGFMP on December 16, 2022 (87 FR 77007). The management measures set at the start of the biennial harvest specifications cycle help the various sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal.

At its September 2024 meeting, the Council recommended an assortment of modifications that included corrections and adjustments, to commercial fixed gear trip limits and incidental catch limits, for limited entry (LE) and open access (OA) fisheries for the remainder of 2024. Stocks and complexes with recommended changes included the other fish complex south of 40°10′ N lat., minor nearshore rockfish south of 40°10′ N lat., and cabezon in California. Potential changes were analyzed and ultimately recommended after updated information regarding projected catch and attainment became available, as well as requests from industry.

Pacific Coast groundfish fisheries are managed using harvest specifications or limits (*e.g.,* overfishing limits,

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 26, 2024.

Debra Shore,

Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. Section 52.2591 is amended by:

■ a. Revising paragraph (i); and

■ b. Removing and reserving paragraph (l).

The revision reads as follows:

§ 52.2591 Section 110(a)(2) Infrastructure Requirements.

* * * * *

(i) Approval—In September 14, 2018, and August 3, 2022, submissions, WDNR certified that the state has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2015 ozone NAAQS. For section 110(a)(2)(D)(i)(I), prong 1 is approved and prong 2 is disapproved.

* * * * *

[FR Doc. 2024–19548 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2022–0879; FRL–8899–02–OAR]

RIN 2060–AV40

National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE), the New Source Performance Standards (NSPS) for Stationary Compression Ignition (CI) Internal Combustion Engines, and the NSPS for Stationary Spark Ignition (SI) Internal Combustion Engines, to add electronic reporting provisions. The addition of electronic reporting provisions will provide for simplified reporting by sources and enhance availability of data on sources to the EPA and the public. In addition, a small number of clarifications and corrections to these rules are being finalized to provide clarification and correct inadvertent and other minor errors in the Code of Federal Regulations (CFR), particularly related to tables.

DATES: This final rule is effective on August 30, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2022–0879. 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 electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher Werner, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–5133; and email address: *werner.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

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

II. Background

III. What changes did we propose and what changes are we finalizing?
- A. Summary of Actions Proposed
- B. Electronic Reporting
- C. Clarifications to Table 4 in NSPS Subpart IIII
- D. Correction of Inadvertent Errors in NESHAP Subpart ZZZZ
- E. Clarifications to the Oil Change Requirement in NESHAP Subpart ZZZZ
- F. Other Requests for Comments
- G. Effective Date and Compliance Dates

IV. Summary of Cost, Environmental, and Economic Impacts
- A. What are the air quality impacts?
- B. What are the cost impacts?
- C. What are the economic impacts?
- D. What are the benefits?

V. Statutory and Executive Order Reviews
- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act (NTTAA)
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing our Nation's Commitment to Environmental Justice for All
- K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Categories and entities potentially regulated by this action include industries using stationary engines, including both compression and spark ignition internal combustion engines, such as: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and

natural gas production; Natural gas liquids producers; and National security. North American Industry Classification System Codes of potentially regulated industries may include 2211, 622110, 48621, 211111, 211112, and 92811. This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the rules. If you have any questions regarding the applicability of any aspect of this action, please contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

In addition to being available in the docket, an electronic copy of this final action is available on the internet at *https://www.epa.gov/stationary-engines*. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final rule and key technical documents at this same website.

C. Judicial Review and Administrative Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the court) by October 29, 2024. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

II. Background

Stationary engines are used in a variety of applications from generating electricity to powering pumps and compressors in power and manufacturing plants. They are also used in the event of an emergency such as fire or flood. The key air pollutants the EPA regulates from these sources include formaldehyde, acetaldehyde, acrolein, methanol, polycyclic aromatic hydrocarbon, volatile organic compounds, carbon monoxide, nitrogen oxides, particulate matter, sulfur dioxide, and hydrocarbons.

A CI engine, or diesel engine, is a type of engine in which the fuel injected into the combustion chamber is ignited by a heat resulting from the compression of gases inside the cylinder. A SI engine is a type of engine in which the fuel-air mixture in the combustion chamber is ignited by a spark from a spark plug.

The NESHAP for RICE is codified in 40 CFR part 63, subpart ZZZZ, which was first promulgated in 2004. The NSPS for Stationary CI Internal Combustion Engines (ICE) is codified in 40 CFR part 60, subpart IIII, which was first promulgated in 2006. The NSPS for Stationary SI Internal Combustion Engines is codified in 40 CFR part 60, subpart JJJJ, which was first promulgated in 2008. All have been amended several times since promulgation.

III. What changes did we propose and what changes are we finalizing?

A. Summary of Actions Proposed

On June 26, 2023 (88 FR 41361), the EPA proposed the following pursuant to CAA sections 111 and 112: addition of requirements for electronic reporting to 40 CFR part 60, subpart IIII, 40 CFR part 60, subpart JJJJ, and 40 CFR part 63, subpart ZZZZ; clarifications to table 4 in 40 CFR part 60, subpart IIII due to incorrect display in the CFR; the correction of inadvertent errors in 40 CFR part 63, subpart ZZZZ, specifically in 40 CFR 63.6625(j) the need to reference additional line items in table 2d; and clarifications to the oil change requirements for certain engines as referenced in 40 CFR part 63, subpart ZZZZ, tables 2c and 2d. The following sections discuss the proposed changes in more detail, along with significant comments received and the EPA's response to those comments, and the final amendments to the rules, including any changes to what was proposed that are being made as a result of comments received. For additional comments and responses, please see the document, *Summary of Public Comments and EPA's Responses National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting,* available in the docket for this action. The EPA also solicited comments to aid in its consideration of the appropriate next steps following remand of the provisions specifying that emergency engines can operate for up to 50 hours per year to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region by the court. The EPA appreciates the comments and information that were provided during the public comment period and will consider them as it assesses the appropriate path forward but is not responding to these comments or taking further action on these provisions at this time.

B. Electronic Reporting

The EPA proposed that owners and operators of stationary engines subject to NSPS subparts IIII or JJJJ, or NESHAP subpart ZZZZ, submit electronic copies of certain initial notifications of compliance, performance test reports, Notification of Compliance Status (NOCS), and annual and semiannual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process was provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules* and was placed in the docket at the time of proposal. The EPA proposed that the initial notification of compliance be submitted through CEDRI, that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the

ERT website [1] at the time of the test be submitted in the format generated through the use of the ERT or an electronic file consistent with the extensible markup language (XML) schema on the ERT website, and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. The EPA also proposed that NOCS for NESHAP subpart ZZZZ be submitted as a PDF upload in CEDRI.

For annual and semiannual compliance reports, the EPA proposed that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. Draft versions of the proposed templates for these reports were included in the docket at the time of proposal.[2] The EPA specifically requested comment on the content, layout, and overall design of the templates.

Additionally, the EPA identified two broad circumstances in which electronic reporting extensions may be provided. These circumstances were: (1) outages of the EPA's CDX or CEDRI which preclude an owner or operator from accessing the system and submitting required reports and (2) force majeure events, which are defined as events that will be or have been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevent an owner or operator from complying with the requirement to submit a report electronically. Examples of force majeure events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. The EPA provided these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

As described in the proposed rulemaking, the electronic submittal of the reports addressed in this final rule will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated State, local, Tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [3] to implement Executive Order 13563 and is in keeping with the EPA's agency-wide policy [4] developed in response to the White House's Digital Government Strategy.[5] For more information on the benefits of electronic reporting, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the docket for this action.

As part of the electronic reporting effort, reporting requirements in NESHAP subpart ZZZZ were clarified and adjusted to be consistent for all engine types as well as to provide specificity in units of measure and to provide consistency between the NSPS and the NESHAP. With these changes, the regulatory text in 40 CFR part 63, subpart ZZZZ at 40 CFR 63.6650 now includes all the applicable data elements required by 40 CFR 63.10(e)(3), and the general provisions applicability table is being revised to reflect that 40 CFR 63.10(e)(3) is no longer applicable.

We received comments both in support of, and opposed to, the addition of electronic reporting provisions, as well as several comments regarding the draft electronic reporting templates that were made available in the docket. In response to these comments, we made some clarifying changes to the templates. We address and respond to these comments in detail in the response to comment document available in the docket for this action.

One clarifying change made in response to comments was to alter the regulatory text and the corresponding entry in the final reporting template for subpart ZZZZ to require the year the engine was constructed, rather than the specific date. Additionally, if the exact year is unknown, an estimate can be provided.

The Department of Defense (DoD) commented that all templates provided for review have a requirement to provide the latitude and longitude of the engine in decimal degrees reported to the fifth decimal place, but due to the present-day public availability of electronic data files, DoD is concerned that disclosing the location of certain engines used by the commenter can compromise national security. The comment requested the EPA consider including an option for template latitude and longitude data fields that would allow an installation to label critical system geolocation data as ''confidential'' or ''national security information.'' By offering such an option, the commenter's national security data would not be disclosed or retrievable through publicly available agency (Federal/state/local/tribal) electronic data systems.

The EPA agrees that the exact location of engines should not be reported if the location should remain confidential due to national security concerns. The EPA has clarified for the final rule that if disclosure of the exact location of an engine that is owned by or operated by or for an agency of the Federal Government that is responsible for national defense would be a threat to national security, the filer may claim a national security exemption, which will allow the latitude and longitude fields in the reporting template to be left blank. A corresponding revision is also being made to the regulatory text. It should be noted that the reports still contain the address of the facility at which the engine(s) are located.[6]

[1] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[2] See *60.4214d3_annual_report_bulk_upload_template_ICRDraft.xlsx, 60.4245e3_annual_report_bulk_upload_template_ICRDraft.xlsx, and 63.6650_h_and_i Compliance Report Template_ICRDraft.xlsm,* available at Docket ID. No. EPA–HQ–OAR–2022–0879.

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

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

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

[6] The comment also suggested that the EPA should establish criteria for access to precise geolocation of sources in all appropriate stationary engine (NESHAP and NSPS) rules. The EPA does not find it necessary to adopt such criteria at this time, particularly since facility address data is still required to be reported but will work with other agencies to address this issue in the future if it becomes appropriate.

C. Clarifications to Table 4 in NSPS Subpart IIII

Since it was originally published in the CFR, ''Table 4 to Subpart IIII of Part 60—Emission Standards for Stationary Fire Pump Engines'' has been confusing to the public because it shows blank cells for the CO standard for certain engine model years. The table intended to show that the same CO standard applies for all model years. The table was not intended to be displayed in this manner and the current version simply reflects a mismatch between what was submitted by the EPA and what was able to be shown in the CFR. The EPA invited comment on whether any other aspect of this table was confusing or incorrect (it was shown as table 1 in the preamble of the proposal), but we did not solicit comment on any proposed changes to the standards themselves.

We received comment supporting the clarified table and further suggesting that the units of the engine emission standards be added, similar to how the units are currently shown in tables 1 and 2 of 40 CFR part 60, subpart IIII, to prevent any potential confusion regarding the applicable emission standards. We agree that this suggestion would provide further clarification and prevent additional confusion. We are, therefore, finalizing the clarifications to this table as proposed and additionally placing units in the column heading of the table as shown in table 1 of this document.

TABLE 1—CLARIFIED VERSION OF ''TABLE 4 TO SUBPART IIII OF PART 60—EMISSION STANDARDS FOR STATIONARY FIRE PUMP ENGINES''

Maximum engine power	Model year(s)	Emission standards for stationary fire pump engines in g/KW-hr (g/HP-hr)		
		NMHC + NO_X	CO	PM
KW<8 (HP<11)	2010 and earlier	10.5 (7.8)	8.0 (6.0)	1.0 (0.75)
KW<8 (HP<11)	2011 +	7.5 (5.6)	8.0 (6.0)	0.40 (0.30)
8≤KW<19 (11≤HP<25)	2010 and earlier	9.5 (7.1)	6.6 (4.9)	0.80 (0.60)
8≤KW<19 (11≤HP<25)	2011 +	7.5 (5.6)	6.6 (4.9)	0.40 (0.30)
19≤KW<37 (25≤HP<50)	2010 and earlier	9.5 (7.1)	5.5 (4.1)	0.80 (0.60)
19≤KW<37 (25≤HP<50)	2011 +	7.5 (5.6)	5.5 (4.1)	0.30 (0.22)
37≤KW<56 (50≤HP<75)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
37≤KW<56 (50≤HP<75)	2011 + [1]	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
56≤KW<75 (75≤HP<100)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
56≤KW<75 (75≤HP<100)	2011 + [1]	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
75≤KW<130 (100≤HP<175)	2009 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
75≤KW<130 (100≤HP<175)	2010 + [2]	4.0 (3.0)	5.0 (3.7)	0.30 (0.22)
130≤KW<225 (175≤HP<300)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
130≤KW<225 (175≤HP<300)	2009 + [3]	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
225≤KW<450 (300≤HP<600)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
225≤KW<450 (300≤HP<600)	2009 + [3]	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
450≤KW≤560 (600≤HP≤750)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
450≤KW≤560 (600≤HP≤750)	2009 +	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
KW≤560 (HP>750)	2007 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
KW≤560 (HP>750)	2008 +	6.4 (4.8)	3.5 (2.6)	0.20 (0.15)

[1] For model years 2011–2013, manufacturers, owners, and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 revolutions per minute (rpm) may comply with the emission limitations for 2010 model year engines.

[2] For model years 2010–2012, manufacturers, owners, and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2009 model year engines.

[3] In model years 2009–2011, manufacturers of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2008 model year engines.

D. Correction of Inadvertent Errors in NESHAP Subpart ZZZZ

As it appeared in the CFR at the time of the proposal, table 2d in 40 CFR part 63, subpart ZZZZ correctly indicated multiple SI engine types for which oil change requirements apply. Specifically, table 2d's items numbers 5, 6, 7, 8, 10, 11, and 13 all indicated SI engine types for which these requirements apply. When this table was last revised,[7] corresponding changes to 40 CFR 63.6625(j) were inadvertently not made. As a result, the version of 40 CFR 63.6625(j), which specifies that an oil analysis program can be used to extend the oil change requirements, referred to an incorrect set of table 2d's item numbers. Therefore, the EPA proposed to amend 40 CFR 63.6625(j) to include the correct list of table 2d's item numbers, specifically 5, 6, 7, 8, 10, 11, and 13, that indicate SI engine types for which oil change requirements apply.

We received no comments opposing this correction and received only one comment in general support of it. Therefore, we are finalizing the correction as proposed.

E. Clarifications to the Oil Change Requirement in NESHAP Subpart ZZZZ

As indicated in tables 2c and 2d of 40 CFR part 63, subpart ZZZZ, several types of CI and SI engines are subject to oil change requirements. The number of hours of operation allowed between oil changes stated in the requirement vary by engine type. However, in each instance, the requirement that appeared in the CFR at the time of the proposal was phrased in the form: ''Change oil and filter every X,XXX hours of operation or annually, whichever comes first.''

The EPA receives frequent inquiries from regulated entities regarding these provisions, most often revolving around the meaning of the term ''annually.'' For example, regulated entities sometimes inquire whether ''annually'' means ''every calendar year.'' In such a case, the inquiry amounts to essentially whether an oil change could hypothetically be conducted on January 1, 2019, and the next oil change could then be conducted on December 31, 2020, since 2020 is the calendar year that falls immediately after 2019 (this assumes of course that X,XXX hours of

[7] 78 FR 6709 (January 30, 2013).

operation has not occurred). In such a scenario, however, these two hypothetical oil changes will have actually occurred almost exactly 2 years apart, minus a day.

This is not what the EPA intended with the use of the term ''annually'' in tables 2c and 2d of 40 CFR part 63, subpart ZZZZ. It is important for oil changes to occur as close as possible to 12 months apart to minimize emissions, absent use of the oil analysis programs afforded by 40 CFR 63.6625(i) and (j). The same language of ''annually'' also appears in these tables related to items such as spark plug, air cleaner, and hose and belt inspections, and similar concerns about emissions and engine reliability apply. Therefore, the EPA proposed to replace each instance of use of the term ''annually'' in tables 2c and 2d with the term ''every 12 months.''[8]

The EPA received a number of comments on this issue, which are detailed in the response to comment document available in the docket. While some comments were generally supportive of the EPA's proposed change, commenters asked for additional flexibility beyond that afforded by the proposed language, mainly due to concerns about performing oil changes within a tight window in the case of unforeseen events or due to scheduling concerns for maintenance personnel or contractor availability. Most commenters favored an additional month of flexibility beyond the 12-month deadline.[9] After considering these comments, we are making adjustments to the final language to state ''within 1 year + 30 days of the previous change'' (and, in the case of items such as spark plug, air cleaner, and hose and belt inspections, ''within 1 year + 30 days of the previous inspection'') in lieu of the current ''annually.'' The EPA continues to believe that it is appropriate for oil changes to be performed annually (*i.e.,* after 365 days) but is balancing the need for timely oil changes for proper emissions control against the practical concerns raised by commenters regarding scheduling oil changes in a tight window. Pursuant to this revised text, an oil change could hypothetically be conducted on June 1, 2025, and the next oil change could then be conducted anywhere from June 2, 2025, to July 1, 2026, and be in compliance with the regulations. The EPA also finds that this revised language will address the request by some commenters for more clarity as to the deadline for oil changes. As explained at proposal, it is worthwhile to note that the EPA occasionally receives questions as to whether regulated entities that adopt the oil analysis program in 40 CFR 63.6625(i) or (j) must change the oil filter on a more frequent basis than the oil is changed even when the oil analysis program indicates condemning limits have not yet been reached for Total Acid or Total Base Number, viscosity, and percent water content. We are clarifying that regulated entities that adopt the oil analysis program must change the oil filter for these generators when changing the oil and are not required to change the filter prior to changing the oil. We received no comments opposing this clarification. The intention of the EPA's regulations is that the oil filter should always be changed whenever the engine oil is changed, and we are finalizing the proposed changes to the regulatory text to this effect. Also please note that nothing in the EPA's regulations prevents the owner and operator from changing the oil or the oil filter sooner than condemning limits have been reached, if desired.

F. Other Requests for Comments

In addition to general comments on the proposal, we also asked for comments on the reporting template that was placed in the docket for this action. Several commenters suggested changes to the template and after considering these comments we have made minor clarifying changes to the template. These comments and our responses are discussed more fully in the response to comment document available in the docket for this action. A final template is also available in the docket for this action.

The EPA also requested comments on the provisions specifying that emergency engines can operate for up to 50 hours per year to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region. These provisions appear in the NESHAP[10] and both NSPS[11] and are often referred to as the ''50-hour provisions.'' The EPA did not propose any changes to the 50-hour provisions, but as discussed in the proposal, solicited comments to aid in its consideration of the appropriate next steps following remand of the provisions by the court. The EPA appreciates the comments and information that were provided during the public comment period and is considering them as we assess the appropriate path forward. However, the EPA did not propose and is not finalizing, any changes to the 50-hour provisions at this time; and we have not addressed those comments in the response to comments document for this final rule.

G. Effective Date and Compliance Dates

As stated in the proposal, the EPA's experience with other industries and entities that are required to convert reporting mechanisms, install necessary hardware and software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters shows that a time period of a minimum of 90 days, but more typically 180 days, is generally necessary to successfully complete these changes. Due to the diverse nature of the stationary engine sector, the EPA proposed to allow 180 days from the date of the final rule for all electronic reporting provisions, and where a semiannual or annual report template is newly required, 180 days or 1 year from the date that the report template is made available on CEDRI, whichever is later, for compliance with the proposed electronic reporting requirements. For all other proposed requirements, because they are non-substantive edits simply to clarify existing requirements, the EPA proposed to make compliance effective immediately upon promulgation of the final rule.

We received some comments asking for a longer compliance timeframe. The majority of these are addressed in the response to comment document available in the docket for this action, but in general, the commenters that asked for additional time to comply were generally mistaken about the steps required to make their systems compatible with electronic reporting. For sources that were already required to submit the annual reports via an

[8] Additionally, the same language of ''annually'' also in appears in a separate location in subpart ZZZZ, namely in the subsection on management practices applicable to existing stationary non-emergency CI RICE with a site rating of more than 300 HP located on an offshore vessel that is an area source of HAP and is a nonroad vehicle that is an Outer Continental Shelf source as defined in 40 CFR 55.2. Similar concerns apply to the engines affected by this subsection (40 CFR 63.6603). So we, likewise, proposed to replace each instance of the term ''annually'' with the term ''every 12 months'' there.

[9] The EPA also is making it clear that we do not prohibit changing the oil earlier than 12 months if entities desire to do so (since this was raised in some comments).

[10] 40 CFR 63.6640(f)(4)(ii).

[11] 40 CFR 60.4211(f)(3)(i), 40 CFR 60.4243(d)(3)(i).

electronic template to CEDRI prior to this rulemaking (*i.e.,* emergency stationary CI ICE subject to reporting under 40 CFR 60.4214(d) in 40 CFR part 60, subpart IIII, emergency stationary SI ICE subject to reporting under 40 CFR 60.4245(e) in 40 CFR part 60, subpart JJJJ, and emergency stationary RICE subject to reporting under 40 CFR 63.6650(h) in 40 CFR part 63, subpart ZZZZ) the EPA determined that 180 days is sufficient time to adjust to the revised electronic template and accommodate the new reporting elements. For all other sources, the EPA determined that the additional year after the reporting template becomes available in CEDRI is necessary for these sources to begin electronic reporting. As discussed in the response to comments document, the EPA considers a year to be an adequate amount of time for these sources to adjust to electronic reporting. We are therefore finalizing the compliance timeframe as proposed.

Pursuant to CAA sections 111(b)(1)(B) and 112(i), the revisions to the rules being promulgated in this action are effective on August 30, 2024. The compliance date for affected sources to comply with the amendments pertaining to electronic reporting is 180 days after the effective date of the rule, or, where electronic reporting is newly required for semiannual or annual compliance reports, 1 year from the date that the respective report template is made available on CEDRI, whichever is later.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the air quality impacts?

No air quality impacts are expected to result from this rulemaking.

B. What are the cost impacts?

The EPA estimated costs for this action are based on the results of the analysis for information collection activities, as presented in the Paperwork Reduction Act (PRA) section and accompanying Information Collection Request (ICR) documents in the docket.

When assessed over the first 3 years of compliance, the incremental costs for both NSPS (subpart IIII and subpart JJJJ) are estimated to be negative, *i.e.,* reflect a cost savings, for all 3 years. For the NESHAP (subpart ZZZZ), the incremental cost is estimated to have costs in 2025 followed by cost savings in 2026 and 2027. When viewed on an overall basis (*i.e.,* all subparts considered), undiscounted costs for the final rule, in 2021$, are $18.0 million in 2025, ($38.0 million) in 2026, and ($38.2 million) in 2027, with parentheses indicating negative values, *i.e.,* cost savings. Although the EPA also anticipates that the final rule will continue to result in cost savings in years beyond 2027 for all subparts, we have not estimated the magnitude or duration of these cost savings. These estimates are consistent with our experience that electronic reporting reduces burden on regulated entities (and the EPA) by eliminating paper-based processes and providing data quickly and accurately.

More details on cost impact analyses for the final rule can be found in the ''*What are the economic impacts?*'' section of this preamble as well as in section 2 of the memorandum, *Economic Impact and Small Business Analysis for the National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments,* which is also available in the docket for this action.

C. What are the economic impacts?

The EPA conducted economic impact analyses for the final rule, as detailed in the memorandum, *Economic Impact and Small Business Analysis for the National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendments,* which is available in the docket for this action.

Costs were estimated for the first 3 years following this action. Correspondingly, a 3-year period from 2025 to 2027 was selected as the best measure of the economic impacts of this action. This allowed for a reasonable and consistent timeframe over which to examine impacts of this action from a present value (PV) perspective. The PV in 2021 dollars is a cost saving of approximately $53.8 million using a 2 percent discount rate, a cost saving of approximately $51.8 using a 3 percent discount rate, and a cost saving of approximately $44.5 million using a 7 percent discount rate.[12] [13] The equivalent annualized value (EAV), in 2021 dollars, is a cost saving of approximately $18.7 million using a discount rate of 2 percent, a cost saving of approximately $18.3 using a discount rate of 3 percent, and a cost saving of approximately $16.9 million using a discount rate of 7 percent. The amendments to 40 CFR part 60, subparts IIII and JJJJ have estimated cost savings for respondents in each year. We conducted an analysis assessing the impacts of the costs associated with the amendments to 40 CFR part 63, subpart ZZZZ. As shown in the supporting statement to 40 CFR part 63, subpart ZZZZ, the amendments to ZZZZ have estimated costs of $32 per respondent for the first year and cost savings thereafter. As described the economic impact analysis, for the first year such costs are less than 0.1 percent of the average affected entity's payroll, and we conclude that it is reasonable to assume that such costs represent less than 0.1 percent of sales for the average affected entity.[14]

Given the results of the analysis, these economic impacts are relatively small for affected industries and entities impacted by this rule, and there will not be substantial impacts on the markets for affected products. The costs of the rule are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

D. What are the benefits?

The EPA is not making changes to the emission limits and estimates that the final requirements for electronic reporting are not economically significant. Because these amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were projected, we are not estimating any benefits from reducing emissions.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be

[12] Present value and equivalent annualized value calculations can be found in *RICE—final—economic analysis.xls,* a spreadsheet that includes the basis for the economic impacts that was generated by the EPA for this analysis report. This spreadsheet can be found in the docket for this rule.

[13] Results using the 2 percent discount rate were not included in the proposal for this action. The 2003 version of OMB's Circular A–4 had generally recommended 3 percent and 7 percent as default rates to discount social costs and benefits. The analysis of the proposed rule used these two recommended rates. In November 2023, OMB finalized an update to Circular A–4, in which it recommended the general application of a 2 percent rate to discount social costs and benefits (subject to regular updates), which is an estimate of consumption-based discount rate. We include cost results calculated using a 2 percent discount rate consistent with the update to Circular A–4 (OMB, 2023).

[14] The memorandum titled *Economic Impact and Small Business Analysis for the Final National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendment* is available in the docket for this action.

found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR numbers 2196.08, 2227.07, and 1975.12 for NSPS subparts IIII and JJJJ, and NESHAP subpart ZZZZ, respectively. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The amendments mainly add electronic reporting provisions to the rules. In general, the changes do not result in regulated entities needing to submit anything additional electronically that is not currently submitted via paper copies, and this is therefore expected to lessen the recordkeeping and reporting burden. The information is collected to assure compliance with 40 CFR part 60, subparts IIII and JJJJ and 40 CFR part 63, subpart ZZZZ.

Respondents/affected entities: Owners and operators of stationary RICE at either a major or area source of HAP emissions (NESHAP subpart ZZZZ); existing and new manufacturers, owners, and operators of stationary CI internal combustion engines (NSPS subpart IIII); existing and new manufacturers, owners, and operators of stationary SI internal combustion engines (NSPS subpart JJJJ).

Respondents' obligation to respond: Mandatory.

Estimated number of respondents: 915,781 (ZZZZ); 207,360 (IIII); 19,835 (JJJJ).

Frequency of response: Varies by rule and by type of response.

Total estimated burden: (61,799) (ZZZZ); (95,928) (IIII); (1,144) (JJJJ) hours (per year). Burden is defined at 5 CFR 1320.3(b). Note: parentheses indicate a reduction in burden, *i.e.,* a reduced number of hours as a result of the addition of electronic reporting to the rules.

Total estimated cost: ($7,581,151) (ZZZZ); ($11,688,145) (IIII); ($140,379) (JJJJ) (per year), includes $0 annualized capital or operation & maintenance costs. Note: parentheses indicate a reduction in cost as a result of the addition of electronic reporting to the rules.

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

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses, small governmental jurisdictions and small non-profits across a range of sectors, that own or operate stationary engines (*e.g.,* for generating electricity in remote areas or when electricity supply is temporarily interrupted), including but not limited to: Electric power generation, transmission, or distribution; Medical and surgical hospitals; Natural gas transmission; Crude petroleum and natural gas production; Natural gas liquids producers; and National security.

The amendments to 40 CFR part 60, subparts IIII and JJJJ have estimated cost savings for respondents by reducing reporting burdens. We conducted analysis assessing the impacts of the costs associated with the amendments to 40 CFR part 63, subpart ZZZZ. As shown in the supporting statement to 40 CFR part 63, subpart ZZZZ, this subpart has estimated costs of $32 per respondent in 1 year, and cost savings in following years. We estimate that this compliance cost of $32 per respondent is well below a 1 percent impact relative to payroll or sales for affected small entities.[15] While there is some uncertainty in these estimates, due to the range of entities that may own or operate stationary engines, there is a large margin before the impacts would approach a 1 percent impact for a substantial number of small entities. Details of this analysis are presented in the memorandum titled *Economic Impact and Small Business Analysis for the National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines; Electronic Reporting Amendment,* which is available in the docket for this action.

[15] For example, for an entity with $32,000 in payroll, the compliance cost would represent an impact of 0.1% relative to payroll.

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. This action will reduce reporting costs for all sources, although we did estimate some initial costs (well under $100 million in the aggregate) for some sources.

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. While some Tribes could be impacted by this amendment, this rulemaking would reduce the compliance costs for owners and operators of stationary engines. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, the EPA's Policy on Children's Health also does not apply.

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 and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This is because this action involves the addition of electronic reporting and therefore is not expected to change emissions.

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, Reporting and recordkeeping requirements.

40 CFR Part 63

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

Michael S. Regan,

Administrator.

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

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

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

Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

■ 2. Amend § 60.4214 by:
■ a. Revising paragraph (a)(1) introductory text and paragraph (d)(3); and
■ b. Adding paragraphs (f), (g), (h), (i), and (j).

The revisions and additions read as follows:

§ 60.4214 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary CI internal combustion engine?

(a) * * *

(1) Submit an initial notification as required in § 60.7(a)(1). The notification must include the information in paragraphs (a)(1)(i) through (v) of this section. Beginning on February 26, 2025, submit the notification electronically according to paragraph (g) of this section.

* * * * *

(d) * * *

(3) The annual report must be submitted electronically using the subpart specific reporting form in the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). However, if the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the written report must be submitted to the Administrator at the appropriate address listed in § 60.4. Beginning on February 26, 2025, submit annual report electronically according to paragraph (g) of this section.

* * * * *

(f) Beginning on February 26, 2025, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test required under this section following the procedures specified in paragraphs (f)(1) and (2) of this section.

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

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

(g) If you are required to submit notifications or reports following the procedure specified in this paragraph (g), you must submit notifications or reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report or notification, you must submit a complete file in the format specified in this subpart, including information claimed to be CBI, to the EPA following the procedures in paragraphs (g)(1) and (2) of this section. Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (g).

(1) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described in paragraph (g) of this section, should include clear CBI markings. ERT files should be flagged to

the attention of the Group Leader, Measurement Policy Group; all other files should be flagged to the attention of the Stationary Compression Ignition Internal Combustion Engine Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(2) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711. ERT files should be sent to the attention of the Group Leader, Measurement Policy Group, and all other files should be sent to the attention of the Stationary Compression Ignition Internal Combustion Engine Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

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

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

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

(3) The outage may be planned or unplanned.

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

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

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

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

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

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

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

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

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

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

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

(3) You must provide to the Administrator:

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

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

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

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

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

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

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

■ 3. Revise table 4 to subpart IIII of part 60 to read as follows:

TABLE 4 TO SUBPART IIII OF PART 60—EMISSION STANDARDS FOR STATIONARY FIRE PUMP ENGINES

[As stated in §§ 60.4202(d) and 60.4205(c), you must comply with the following emission standards for stationary fire pump engines]

Maximum engine power	Model year(s)	Emission standards for stationary fire pump engines in g/KW-hr (g/HP-hr)		
		NMHC + NO_X	CO	PM
KW<8 (HP<11)	2010 and earlier	10.5 (7.8)	8.0 (6.0)	1.0 (0.75)
KW<8 (HP<11)	2011 +	7.5 (5.6)	8.0 (6.0)	0.40 (0.30)
8≤KW<19 (11≤HP<25)	2010 and earlier	9.5 (7.1)	6.6 (4.9)	0.80 (0.60)
8≤KW<19 (11≤HP<25)	2011 +	7.5 (5.6)	6.6 (4.9)	0.40 (0.30)
19≤KW<37 (25≤HP<50)	2010 and earlier	9.5 (7.1)	5.5 (4.1)	0.80 (0.60)
19≤KW<37 (25≤HP<50)	2011 +	7.5 (5.6)	5.5 (4.1)	0.30 (0.22)
37≤KW<56 (50≤HP<75)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
37≤KW<56 (50≤HP<75)	2011 + [1]	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
56≤KW<75 (75≤HP<100)	2010 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)

TABLE 4 TO SUBPART IIII OF PART 60—EMISSION STANDARDS FOR STATIONARY FIRE PUMP ENGINES—Continued

[As stated in §§ 60.4202(d) and 60.4205(c), you must comply with the following emission standards for stationary fire pump engines]

Maximum engine power	Model year(s)	Emission standards for stationary fire pump engines in g/KW-hr (g/HP-hr)		
		NMHC + NO_X	CO	PM
56≤KW<75 (75≤HP<100)	2011 + [1]	4.7 (3.5)	5.0 (3.7)	0.40 (0.30)
75≤KW<130 (100≤HP<175)	2009 and earlier	10.5 (7.8)	5.0 (3.7)	0.80 (0.60)
75≤KW<130 (100≤HP<175)	2010 + [2]	4.0 (3.0)	5.0 (3.7)	0.30 (0.22)
130≤KW<225 (175≤HP<300)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
130≤KW<225 (175≤HP<300)	2009 + [3]	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
225≤KW<450 (300≤HP<600)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
225≤KW<450 (300≤HP<600)	2009 + [3]	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
450≤KW≤560 (600≤HP≤750)	2008 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
450≤KW≤560 (600≤HP≤750)	2009 +	4.0 (3.0)	3.5 (2.6)	0.20 (0.15)
KW>560 (HP>750)	2007 and earlier	10.5 (7.8)	3.5 (2.6)	0.54 (0.40)
KW>560 (HP>750)	2008 +	6.4 (4.8)	3.5 (2.6)	0.20 (0.15)

[1] For model years 2011–2013, manufacturers, owners and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 revolutions per minute (rpm) may comply with the emission limitations for 2010 model year engines.

[2] For model years 2010–2012, manufacturers, owners and operators of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2009 model year engines.

[3] In model years 2009–2011, manufacturers of fire pump stationary CI ICE in this engine power category with a rated speed of greater than 2,650 rpm may comply with the emission limitations for 2008 model year engines.

* * * * *

Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

■ 4. Amend § 60.4245 by:

■ a. Revising paragraph (c) introductory text, paragraphs (d), and (e)(3); and

■ b. Adding paragraphs (f), (g), (h), (i), and (j).

The revisions and additions 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?

* * * * *

(c) Owners and operators of stationary SI ICE greater than or equal to 500 HP that have not been certified by an engine manufacturer to meet the emission standards in § 60.4231 must submit an initial notification as required in § 60.7(a)(1). The notification must include the information in paragraphs (c)(1) through (5) of this section. Beginning on February 26, 2025 submit the notification electronically according to paragraph (g) of this section.

* * * * *

(d) Owners and operators of stationary SI ICE that are subject to performance testing must submit a copy of each performance test as conducted in § 60.4244 within 60 days after the test has been completed. Performance test reports using EPA Method 18, EPA Method 320, or ASTM D6348–03 (incorporated by reference—see 40 CFR 60.17) to measure VOC require reporting of all QA/QC data. For Method 18, report results from sections 8.4 and 11.1.1.4; for Method 320, report results from sections 8.6.2, 9.0, and 13.0; and for ASTM D6348–03 report results of all QA/QC procedures in Annexes 1–7. Beginning on February 26, 2025, performance tests must be reported electronically according to paragraph (f) of this section.

(e) * * *

(3) The annual report must be submitted electronically using the subpart specific reporting form in the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). However, if the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the written report must be submitted to the Administrator at the appropriate address listed in § 60.4. Beginning on February 26, 2025, submit annual report electronically according to paragraph (g) of this section.

(f) Beginning on February 26, 2025, within 60 days after the date of completing each performance test, you must submit the results following the procedures specified in paragraph (g) of this section. Data collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test must be included as an attachment in the ERT or an alternate electronic file.

(g) If you are required to submit notifications or reports following the procedure specified in this paragraph (g), you must submit notifications or reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report or notification, you must submit a complete file in the format specified in this subpart, including information claimed to be CBI, to the EPA following the procedures in paragraphs (g)(1) and (2) of this section. Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data

available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (g).

(1) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described in paragraph (g) of this section, should include clear CBI markings. ERT files should be flagged to the attention of the Group Leader, Measurement Policy Group; all other files should be flagged to the attention of the Stationary Spark Ignition Internal Combustion Engine Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(2) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711. ERT files should be sent to the attention of the Group Leader, Measurement Policy Group, and all other files should be sent to the attention of the Stationary Spark Ignition Internal Combustion Engine Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

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

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

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

(3) The outage may be planned or unplanned.

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

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

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

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

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

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

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

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

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

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

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

(3) You must provide to the Administrator:

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

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

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

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

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

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

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

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

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

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

Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines

■ 6. Amend § 63.6603 by revising paragraphs (c)(1) through (4) to read as follows:

§ 63.6603 What emission limitations, operating limitations, and other requirements must I meet if I own or operate an existing stationary RICE located at an area source of HAP emissions?

* * * * *

(c) * * *

(1) Change oil every 1,000 hours of operation or within 1 year + 30 days of the previous change, whichever comes first. Sources have the option to utilize an oil analysis program as described in § 63.6625(i) in order to extend the specified oil change requirement.

(2) Inspect and clean air filters every 750 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.

(3) Inspect fuel filters and belts, if installed, every 750 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.

(4) Inspect all flexible hoses every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.

* * * * *

■ 7. Amend § 63.6620 by adding paragraph (j) to read as follows:

§ 63.6620 What performance tests and other procedures must I use?

* * * * *

(j) Beginning on February 26, 2025, within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedure specified in § 63.9(k). Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test must be included as an attachment in the ERT or alternate electronic file.

■ 8. Amend § 63.6625 by:

■ a. Adding paragraph (a)(5); and

■ b. Revising paragraphs (i) and (j).

The additions and revisions read as follows:

§ 63.6625 What are my monitoring, installation, collection, operation, and maintenance requirements?

* * * * *

(a) * * *

(5) Beginning on February 26, 2025, within 60 days after the date of completing each continuous emissions monitoring system (CEMS) performance evaluation (as defined in § 63.2) that includes a relative accuracy test audit (RATA), you must submit the results of the performance evaluation following the procedures specified in § 63.9(k). The results of performance evaluations of CEMS measuring RATA pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation must be submitted in a file format generated using the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website. The results of performance evaluations of CEMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation must be included as an attachment in the ERT or alternate electronic file.

* * * * *

(i) If you own or operate a stationary CI engine that is subject to the work, operation or management practices in items 1 or 2 of table 2c to this subpart or in items 1 or 4 of table 2d to this subpart, you have the option of utilizing an oil analysis program in order to extend the specified oil and filter change requirement in tables 2c and 2d to this subpart. The oil analysis must be performed at the same frequency specified for changing the oil and filter in table 2c or 2d to this subpart. The analysis program must at a minimum analyze the following three parameters: Total Base Number, viscosity, and percent water content. The condemning limits for these parameters are as follows: Total Base Number is less than 30 percent of the Total Base Number of the oil when new; viscosity of the oil has changed by more than 20 percent from the viscosity of the oil when new; or percent water content (by volume) is greater than 0.5. If all of these condemning limits are not exceeded, the engine owner or operator is not required to change the oil and filter. If any of the limits are exceeded, the engine owner or operator must change the oil and filter within 2 business days of receiving the results of the analysis; if the engine is not in operation when the results of the analysis are received, the engine owner or operator must change the oil and filter within 2 business days or before commencing operation, whichever is later. The owner or operator must keep records of the parameters that are analyzed as part of the program, the results of the analysis, and the oil and filter changes for the engine. The analysis program must be part of the maintenance plan for the engine.

(j) If you own or operate a stationary SI engine that is subject to the work, operation or management practices in items 6, 7, or 8 of table 2c to this subpart or in items 5, 6, 7, 8, 10, 11, or 13 of table 2d to this subpart, you have the option of utilizing an oil analysis program in order to extend the specified oil and filter change requirement in tables 2c and 2d to this subpart. The oil analysis must be performed at the same frequency specified for changing the oil and filter in table 2c or 2d to this subpart. The analysis program must at a minimum analyze the following three parameters: Total Acid Number, viscosity, and percent water content. The condemning limits for these parameters are as follows: Total Acid Number increases by more than 3.0 milligrams of potassium hydroxide (KOH) per gram from Total Acid Number of the oil when new; viscosity of the oil has changed by more than 20 percent from the viscosity of the oil when new; or percent water content (by volume) is greater than 0.5. If all of these condemning limits are not exceeded, the engine owner or operator is not required to change the oil and filter. If any of the limits are exceeded, the engine owner or operator must change the oil and filter within 2 business days of receiving the results of the analysis; if the engine is not in operation when the results of the analysis are received, the engine owner or operator must change the oil and filter within 2 business days or before commencing operation, whichever is later. The owner or operator must keep records of the parameters that are analyzed as part of the program, the results of the analysis, and the oil and filter changes for the engine. The analysis program must be part of the maintenance plan for the engine.

■ 9. Amend § 63.6645 by:

■ a. Revising paragraphs (b), (c), (d), (e), (h)(2) introductory text; and

■ b. Adding paragraphs (h)(2)(i) and (ii).

The revisions and additions read as follows:

§ 63.6645 What notifications must I submit and when?

* * * * *

(b) As specified in § 63.9(b)(2), if you start up your stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions before the effective date of this subpart, you must submit an initial notification not later than December 13, 2004, or no later than 120 days after the source becomes subject to this subpart, whichever is later. Beginning on February 26, 2025, submit the notification electronically in portable document format (PDF) consistent with § 63.9(k).

(c) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions on or after August 16, 2004, you must submit an initial notification not later than 120 days after you become subject to this subpart. Beginning on February 26, 2025, submit the notification electronically in PDF consistent with § 63.9(k).

(d) As specified in § 63.9(b)(2), if you start up your stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions before the effective date of this subpart and you are required to submit an initial notification, you must submit an initial notification not later than July 16, 2008, or no later than 120 days after the source becomes subject to this subpart, whichever is later. Beginning on February 26, 2025, submit the notification electronically in PDF consistent with § 63.9(k).

(e) If you start up your new or reconstructed stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions on or after March 18, 2008, and you are required to submit an initial notification, you must submit an initial notification not later than 120 days after you become subject to this subpart. Beginning on February 26, 2025, submit the notification electronically in PDF consistent with § 63.9(k).

* * * * *

(h) * * *

(2) Before February 26, 2025, for each initial compliance demonstration required in table 5 to this subpart that includes a performance test conducted according to the requirements in table 3 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th day following the completion of the performance test according to § 63.10(d)(2). Beginning on February 26, 2025, for each initial compliance demonstration required in table 5 to this subpart that includes a performance test conducted according to the requirements in table 3 to this subpart, you must submit the Notification of Compliance Status, including a summary of the performance test results, in PDF to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), before the close of business on the 60th day following the completion of the performance test following the procedure specified in § 63.9(k), except any Confidential Business Information (CBI) is to be submitted according to paragraphs (h)(2)(i) and (ii) of this section. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report, you must submit a complete file, including information claimed to be CBI, to the EPA following the procedures in paragraphs (h)(2)(i) and (ii) of this section. Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (h)(2).

(i) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described in paragraph (h)(2) of this section, should include clear CBI markings and be flagged to the attention of the Reciprocating Internal Combustion Engine Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(ii) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Reciprocating Internal Combustion Engine Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

* * * * *

■ 10. Amend § 63.6650 by:
■ a. Revising paragraph (c) introductory text and paragraph (c)(4);
■ b. Adding paragraphs (c)(7) through (9);
■ c. Revising paragraphs (d), (e) introductory text, paragraphs (e)(2), (3), and (5) through (7);
■ d. Removing and reserving paragraph (e)(9);
■ e. Adding paragraph (e)(13);
■ f. Revising paragraphs (f), (h)(1)(iii), (ix), and (h)(3); and
■ g. Adding paragraph (i).

The revisions and additions read as follows:

§ 63.6650 What reports must I submit and when?

* * * * *

(c) The Compliance report must contain the information in paragraphs (c)(1) through (8) of this section.

* * * * *

(4) If you had a malfunction during the reporting period, the compliance report must include the starting and ending date and time, the duration (in hours), and a brief description for each malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.6605(b), including actions taken to correct a malfunction.

* * * * *

(7) Engine site rating in brake HP, year construction of the engine commenced (as defined in § 63.2, where the exact year is not known, provide the best estimate), and type of engine (CI, SI 2SLB, SI 4SLB, or SI 4SRB).

(8) Latitude and longitude of the engine in decimal degrees reported to the fifth decimal place.

(9) An engine can be claimed as exempt from reporting coordinates (latitude/longitude) via CEDRI if:

(i) During the reporting period, the engine will be owned by, or operated by or for, an agency of the Federal Government responsible for national defense; and

(ii) The agency determines that disclosing the coordinates to the general public would be a threat to national security.

(d) For each deviation from an emission or operating limitation that occurs for a stationary RICE where you are not using a CMS to comply with the emission or operating limitations in this subpart, the Compliance report must contain the information in paragraphs (c)(1) through (8) of this section and the information in paragraphs (d)(1) and (2) of this section.

(1) The total operating time (in hours) of the stationary RICE at which the deviation occurred during the reporting period.

(2) Information on the number, duration (in hours), and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(3) A description of any changes in processes, or controls since the last reporting period.

(e) For each deviation from an emission or operating limitation occurring for a stationary RICE where you are using a CMS to comply with the emission and operating limitations in this subpart, you must include information in paragraphs (c)(1) through (8) and (e)(1) through (13) of this section.

* * * * *

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

(3) The start and end date and time and the duration (in hours) that each CMS was out-of-control, including the information in § 63.8(c)(8).

* * * * *

(5) A summary of the total duration (in hours) of the deviation during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration (in hours) of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration (in hours) of CMS downtime during the reporting period, and the total duration of CMS downtime as a percent of the total operating time of the stationary RICE at which the CMS downtime occurred during that reporting period.

* * * * *

(13) The total operating time of the stationary RICE at which the deviation occurred during the reporting period.

(f) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6 (a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a Compliance report pursuant to table 7 of this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the Compliance report includes all required information concerning deviations from any emission or operating limitation in this subpart, submission of the Compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a Compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority. Beginning on February 26, 2025, the semiannual and annual compliance report required in table 7 of this subpart must be submitted according to paragraph (i) of this section. Only those elements required under this subpart are required to be submitted according to paragraph (i) of this section.

* * * * *

(h) * * *

(1) * * *

(iii) Engine site rating in brake HP, year construction of the engine commenced (as defined in § 63.2, where the exact year is not known, provide the best estimate), and type of engine (CI, SI 2SLB, SI 4SLB, or SI 4SRB).

* * * * *

(ix) If there were deviations from the fuel requirements in § 63.6604 that apply to the engine (if any), information on the number, duration (in hours), and cause of deviations, and the corrective action taken.

* * * * *

(3) Before February 26, 2025, the annual report must be submitted electronically using the subpart specific reporting form in the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). However, if the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the written report must be submitted to the Administrator at the appropriate address listed in § 63.13. Beginning on February 26, 2025, the annual report must be submitted according to paragraph (i) of this section.

(i) Beginning on February 26, 2025 for the annual report specified in § 63.6650(h) and February 26, 2025 or one year after the report becomes available in CEDRI, whichever is later for all other semiannual or annual reports, submit all semiannual and annual subsequent compliance reports using the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart and following the procedure specified in § 63.9(k), except any CBI must be submitted according to the procedures in § 63.6645(h). The date report templates become available will be listed on the CEDRI website. Unless the Administrator or delegated state agency or other authority has approved a different schedule for submission of reports, the report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

■ 11. Amend § 63.6655 by revising paragraph (a)(2) to read as follows:

§ 63.6655 What records must I keep?

(a) * * *

(2) Records of the occurrence and duration (in hours) of each malfunction of operation (*i.e.,* process equipment) or the air pollution control and monitoring equipment.

* * * * *

■ 12. Amend § 63.6670 by adding paragraph (c)(6) to read as follows:

§ 63.6670 Who implements and enforces this subpart?

* * * * *

(c) * * *

(6) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 13. Revise Table 2c to subpart ZZZZ of part 63 to read as follows:

TABLE 2c TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR EXISTING COMPRESSION IGNITION STATIONARY RICE LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS AND EXISTING SPARK IGNITION STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS

[As stated in §§ 63.6600, 63.6602, and 63.6640, you must comply with the following requirements for existing compression ignition stationary RICE located at a major source of HAP emissions and existing spark ignition stationary RICE ≤500 HP located at a major source of HAP emissions]

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
1. Emergency stationary CI RICE and black start stationary CI RICE [1].	a. Change oil and filter every 500 hours of operation or within 1 year + 30 days of the previous change, whichever comes first [2]. b. Inspect air cleaner every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary [3].	Minimize the engine's time spent at idle and minimize the engine's startup time at startup to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes, after which time the non-startup emission limitations apply.[3]
2. Non-Emergency, non-black start stationary CI RICE <100 HP.	a. Change oil and filter every 1,000 hours of operation or within 1 year + 30 days of the previous change, whichever comes first [2]. b. Inspect air cleaner every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary [3].	
3. Non-Emergency, non-black start CI stationary RICE 100≤HP≤300 HP.	Limit concentration of CO in the stationary RICE exhaust to 230 ppmvd or less at 15 percent O_2.	
4. Non-Emergency, non-black start CI stationary RICE 300<HP≤500.	a. Limit concentration of CO in the stationary RICE exhaust to 49 ppmvd or less at 15 percent O_2; or b. Reduce CO emissions by 70 percent or more.	
5. Non-Emergency, non-black start stationary CI RICE >500 HP.	a. Limit concentration of CO in the stationary RICE exhaust to 23 ppmvd or less at 15 percent O_2; or b. Reduce CO emissions by 70 percent or more.	
6. Emergency stationary SI RICE and black start stationary SI RICE.[1].	a. Change oil and filter every 500 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [2] b. Inspect spark plugs every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary [3].	
7. Non-Emergency, non-black start stationary SI RICE <100 HP that are not 2SLB stationary RICE.	a. Change oil and filter every 1,440 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [2] b. Inspect spark plugs every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary. c. Inspect all hoses and belts every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary [3].	
8. Non-Emergency, non-black start 2SLB stationary SI RICE <100 HP.	a. Change oil and filter every 4,320 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [2] b. Inspect spark plugs every 4,320 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 4,320 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary [3].	
9. Non-emergency, non-black start 2SLB stationary RICE 100≤HP≤500.	Limit concentration of CO in the stationary RICE exhaust to 225 ppmvd or less at 15 percent O_2.	
10. Non-emergency, non-black start 4SLB stationary RICE 100≤HP≤500.	Limit concentration of CO in the stationary RICE exhaust to 47 ppmvd or less at 15 percent O_2.	
11. Non-emergency, non-black start 4SRB stationary RICE 100≤HP≤500.	Limit concentration of formaldehyde in the stationary RICE exhaust to 10.3 ppmvd or less at 15 percent O_2.	

TABLE 2c TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR EXISTING COMPRESSION IGNITION STATIONARY RICE LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS AND EXISTING SPARK IGNITION STATIONARY RICE >500 HP LOCATED AT A MAJOR SOURCE OF HAP EMISSIONS—Continued

[As stated in §§ 63.6600, 63.6602, and 63.6640, you must comply with the following requirements for existing compression ignition stationary RICE located at a major source of HAP emissions and existing spark ignition stationary RICE ≤500 HP located at a major source of HAP emissions]

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
12. Non-emergency, non-black start stationary RICE 100≤HP≤500 which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis.	Limit concentration of CO in the stationary RICE exhaust to 177 ppmvd or less at 15 percent O_2.	

[1] If an emergency engine is operating during an emergency and it is not possible to shut down the engine in order to perform the work practice requirements on the schedule required in table 2c of this subpart, or if performing the work practice on the required schedule would otherwise pose an unacceptable risk under Federal, state, or local law, the work practice can be delayed until the emergency is over or the unacceptable risk under Federal, state, or local law has abated. The work practice should be performed as soon as practicable after the emergency has ended or the unacceptable risk under Federal, state, or local law has abated. Sources must report any failure to perform the work practice on the schedule required and the Federal, state or local law under which the risk was deemed unacceptable.

[2] Sources have the option to utilize an oil analysis program as described in § 63.6625(i) or (j) in order to extend the specified oil change requirement in table 2c of this subpart.

[3] Sources can petition the Administrator pursuant to the requirements of 40 CFR 63.6(g) for alternative work practices.

■ 14. Revise Table 2d to subpart ZZZZ of part 63 to read as follows:

TABLE 2d TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR EXISTING STATIONARY RICE LOCATED AT AREA SOURCES OF HAP EMISSIONS

[As stated in §§ 63.6603 and 63.6640, you must comply with the following requirements for existing stationary RICE located at area sources of HAP emissions:]

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
1. Non-Emergency, non-black start CI stationary RICE ≤300 HP.	a. Change oil and filter every 1,000 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect air cleaner every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	Minimize the engine's time spent at idle and minimize the engine's startup time at startup to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes, after which time the non-startup emission limitations apply.
2. Non-Emergency, non-black start CI stationary RICE 300<HP≤500.	a. Limit concentration of CO in the stationary RICE exhaust to 49 ppmvd at 15 percent O_2; or b. Reduce CO emissions by 70 percent or more.	
3. Non-Emergency, non-black start CI stationary RICE >500 HP.	a. Limit concentration of CO in the stationary RICE exhaust to 23 ppmvd at 15 percent O_2; or b. Reduce CO emissions by 70 percent or more.	
4. Emergency stationary CI RICE and black start stationary CI RICE.[2]	a. Change oil and filter every 500 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect air cleaner every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
5. Emergency stationary SI RICE; black start stationary SI RICE; non-emergency, non-black start 4SLB stationary RICE >500 HP that operate 24 hours or less per calendar year; non-emergency, non-black start 4SRB stationary RICE >500 HP that operate 24 hours or less per calendar year.[2]	a. Change oil and filter every 500 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect spark plugs every 1,000 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 500 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
6. Non-emergency, non-black start 2SLB stationary RICE.	a. Change oil and filter every 4,320 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect spark plugs every 4,320 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and	

TABLE 2d TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR EXISTING STATIONARY RICE LOCATED AT AREA SOURCES OF HAP EMISSIONS—Continued

[As stated in §§ 63.6603 and 63.6640, you must comply with the following requirements for existing stationary RICE located at area sources of HAP emissions:]

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
	c. Inspect all hoses and belts every 4,320 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
7. Non-emergency, non-black start 4SLB stationary RICE ≤500 HP.	a. Change oil and filter every 1,440 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect spark plugs every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
8. Non-emergency, non-black start 4SLB remote stationary RICE >500 HP.	a. Change oil and filter every 2,160 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect spark plugs every 2,160 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 2,160 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
9. Non-emergency, non-black start 4SLB stationary RICE >500 HP that are not remote stationary RICE and that operate more than 24 hours per calendar year.	Install an oxidation catalyst to reduce HAP emissions from the stationary RICE.	
10. Non-emergency, non-black start 4SRB stationary RICE ≤500 HP.	a. Change oil and filter every 1,440 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect spark plugs every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
11. Non-emergency, non-black start 4SRB remote stationary RICE >500 HP.	a. Change oil and filter every 2,160 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect spark plugs every 2,160 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 2,160 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	
12. Non-emergency, non-black start 4SRB stationary RICE >500 HP that are not remote stationary RICE and that operate more than 24 hours per calendar year.	Install NSCR to reduce HAP emissions from the stationary RICE.	
13. Non-emergency, non-black start stationary RICE which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis.	a. Change oil and filter every 1,440 hours of operation or within 1 year + 30 days of the previous change, whichever comes first; [1] b. Inspect spark plugs every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary; and c. Inspect all hoses and belts every 1,440 hours of operation or within 1 year + 30 days of the previous inspection, whichever comes first, and replace as necessary.	

[1] Sources have the option to utilize an oil analysis program as described in § 63.6625(i) or (j) in order to extend the specified oil change requirement in table 2d of this subpart.

[2] If an emergency engine is operating during an emergency and it is not possible to shut down the engine in order to perform the management practice requirements on the schedule required in table 2d of this subpart, or if performing the management practice on the required schedule would otherwise pose an unacceptable risk under Federal, state, or local law, the management practice can be delayed until the emergency is over or the unacceptable risk under Federal, state, or local law has abated. The management practice should be performed as soon as practicable after the emergency has ended or the unacceptable risk under Federal, state, or local law has abated. Sources must report any failure to perform the management practice on the schedule required and the Federal, state or local law under which the risk was deemed unacceptable.

* * * * *

■ 15. Revise Table 7 to subpart ZZZZ of part 63 to read as follows:

TABLE 7 TO SUBPART ZZZZ OF PART 63—REQUIREMENTS FOR REPORTS

[As stated in § 63.6650, you must comply with the following requirements for reports:]

For each . . .	You must submit a . . .	The report must contain . . .	You must submit the report . . .
1. Existing non-emergency, non-black start stationary RICE 100≤HP≤500 located at a major source of HAP; existing non-emergency, non-black start stationary CI RICE >500 HP located at a major source of HAP; existing non-emergency 4SRB stationary RICE >500 HP located at a major source of HAP; existing non-emergency, non-black start stationary CI RICE >300 HP located at an area source of HAP; new or reconstructed non-emergency stationary RICE >500 HP located at a major source of HAP; and new or reconstructed non-emergency 4SLB stationary RICE 250≤HP≤500 located at a major source of HAP.	Compliance report	a. If there are no deviations from any emission limitations or operating limitations that apply to you, a statement that there were no deviations from the emission limitations or operating limitations during the reporting period. If there were no periods during which the CMS, including CEMS and CPMS, was out-of-control, as specified in § 63.8(c)(7), a statement that there were not periods during which the CMS was out-of-control during the reporting period; or	i. Semiannually according to the requirements in § 63.6650(b)(1)–(5) and (i) for engines that are not limited use stationary RICE subject to numerical emission limitations; and ii. Annually according to the requirements in § 63.6650(b)(6)–(9) and (i) for engines that are limited use stationary RICE subject to numerical emission limitations.
		b. If you had a deviation from any emission limitation or operating limitation during the reporting period, the information in § 63.6650(d). If there were periods during which the CMS, including CEMS and CPMS, was out-of-control, as specified in § 63.8(c)(7), the information in § 63.6650(e); or	i. Semiannually according to the requirements in § 63.6650(b) and (i).
		c. If you had a malfunction during the reporting period, the information in § 63.6650(c)(4).	i. Semiannually according to the requirements in § 63.6650(b) and (i).
2. New or reconstructed non-emergency stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis.	Report	a. The fuel flow rate of each fuel and the heating values that were used in your calculations, and you must demonstrate that the percentage of heat input provided by landfill gas or digester gas, is equivalent to 10 percent or more of the gross heat input on an annual basis; and	i. Annually, according to the requirements in § 63.6650.
		b. The operating limits provided in your federally enforceable permit, and any deviations from these limits; and	i. See item 2.a.i.
		c. Any problems or errors suspected with the meters.	i. See item 2.a.i.
3. Existing non-emergency, non-black start 4SLB and 4SRB stationary RICE >500 HP located at an area source of HAP that are not remote stationary RICE and that operate more than 24 hours per calendar year.	Compliance report	a. The results of the annual compliance demonstration, if conducted during the reporting period.	i. Semiannually according to the requirements in § 63.6650(b)(1)–(5) and (i).
4. Emergency stationary RICE that operate for the purposes specified in § 63.6640(f)(4)(ii).	Report	a. The information in § 63.6650(h)(1) ..	i. Annually according to the requirements in § 63.6650(h)(2)–(3) and (i).

■ 16. Revise Table 8 to subpart ZZZZ of part 63 to read as follows:

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.1	General applicability of the General Provisions.	Yes.	
§ 63.2	Definitions	Yes	Additional terms defined in § 63.6675.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities and circumvention	Yes.	

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.5	Construction and reconstruction	Yes.	
§ 63.6(a)	Applicability	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new and reconstructed sources.	Yes.	
§ 63.6(b)(5)	Notification	Yes.	
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance dates for new and reconstructed area sources that become major sources.	Yes.	
§ 63.6(c)(1)–(2)	Compliance dates for existing sources	Yes.	
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance dates for existing area sources that become major sources.	Yes.	
§ 63.6(d)	[Reserved].		
§ 63.6(e)	Operation and maintenance	No.	
§ 63.6(f)(1)	Applicability of standards	No.	
§ 63.6(f)(2)	Methods for determining compliance	Yes.	
§ 63.6(f)(3)	Finding of compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of alternate standard	Yes.	
§ 63.6(h)	Opacity and visible emission standards.	No	Subpart ZZZZ does not contain opacity or visible emission standards.
§ 63.6(i)	Compliance extension procedures and criteria.	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Subpart ZZZZ contains performance test dates at §§ 63.6610, 63.6611, and 63.6612.
§ 63.7(a)(3)	CAA section 114 authority	Yes.	
§ 63.7(b)(1)	Notification of performance test	Yes	Except that § 63.7(b)(1) only applies as specified in § 63.6645.
§ 63.7(b)(2)	Notification of rescheduling	Yes	Except that § 63.7(b)(2) only applies as specified in § 63.6645.
§ 63.7(c)	Quality assurance/test plan	Yes	Except that § 63.7(c) only applies as specified in § 63.6645.
§ 63.7(d)	Testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	No	Subpart ZZZZ specifies conditions for conducting performance tests at § 63.6620.
§ 63.7(e)(2)	Conduct of performance tests and reduction of data.	Yes	Subpart ZZZZ specifies test methods at § 63.6620.
§ 63.7(e)(3)	Test run duration	Yes.	
§ 63.7(e)(4)	Administrator may require other testing under section 114 of the CAA.	Yes.	
§ 63.7(f)	Alternative test method provisions	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of tests	Yes.	
§ 63.8(a)(1)	Applicability of monitoring requirements.	Yes	Subpart ZZZZ contains specific requirements for monitoring at § 63.6625.
§ 63.8(a)(2)	Performance specifications	Yes.	
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring for control devices	No.	
§ 63.8(b)(1)	Monitoring	Yes.	
§ 63.8(b)(2)–(3)	Multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)	Monitoring system operation and maintenance.	Yes.	
§ 63.8(c)(1)(i)	Routine and predictable SSM	No.	
§ 63.8(c)(1)(ii)	SSM not in Startup Shutdown Malfunction Plan.	Yes.	
§ 63.8(c)(1)(iii)	Compliance with operation and maintenance requirements.	No.	
§ 63.8(c)(2)–(3)	Monitoring system installation	Yes.	
§ 63.8(c)(4)	Continuous monitoring system (CMS) requirements.	Yes	Except that subpart ZZZZ does not require Continuous Opacity Monitoring System (COMS).
§ 63.8(c)(5)	COMS minimum procedures	No	Subpart ZZZZ does not require COMS.
§ 63.8(c)(6)–(8)	CMS requirements	Yes	Except that subpart ZZZZ does not require COMS.

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.8(d)	CMS quality control	Yes.	
§ 63.8(e)	CMS performance evaluation	Yes	Except for § 63.8(e)(5)(ii), which applies to COMS. Except that § 63.8(e) only applies as specified in § 63.6645.
§ 63.8(f)(1)–(5)	Alternative monitoring method	Yes	Except that § 63.8(f)(4) only applies as specified in § 63.6645.
§ 63.8(f)(6)	Alternative to relative accuracy test	Yes	Except that § 63.8(f)(6) only applies as specified in § 63.6645.
§ 63.8(g)	Data reduction	Yes	Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at §§ 63.6635 and 63.6640.
§ 63.9(a)	Applicability and State delegation of notification requirements.	Yes.	
§ 63.9(b)(1)–(5)	Initial notifications	Yes	Except that § 63.9(b)(3) is reserved. Except that § 63.9(b) only applies as specified in § 63.6645.
§ 63.9(c)	Request for compliance extension	Yes	Except that § 63.9(c) only applies as specified in § 63.6645.
§ 63.9(d)	Notification of special compliance requirements for new sources.	Yes	Except that § 63.9(d) only applies as specified in § 63.6645.
§ 63.9(e)	Notification of performance test	Yes	Except that § 63.9(e) only applies as specified in § 63.6645.
§ 63.9(f)	Notification of visible emission (VE)/opacity test.	No	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.9(g)(1)	Notification of performance evaluation	Yes	Except that § 63.9(g) only applies as specified in § 63.6645.
§ 63.9(g)(2)	Notification of use of COMS data	No	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.9(g)(3)	Notification that criterion for alternative to RATA is exceeded.	Yes	If alternative is in use. Except that § 63.9(g) only applies as specified in § 63.6645.
§ 63.9(h)(1)–(6)	Notification of compliance status	Yes	Except that notifications for sources using a CEMS are due 30 days after completion of performance evaluations. § 63.9(h)(4) is reserved. Except that § 63.9(h) only applies as specified in § 63.6645.
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in §§ 63.9(j), 63.6620, 63.6625, 63.6645, and 63.6650.
§ 63.10(a)	Administrative provisions for record-keeping/reporting.	Yes.	
§ 63.10(b)(1)	Record retention	Yes	Except that the most recent 2 years of data do not have to be retained on site.
§ 63.10(b)(2)(i)–(v)	Records related to SSM	No.	
§ 63.10(b)(2)(vi)–(xi)	Records	Yes.	
§ 63.10(b)(2)(xii)	Record when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to RATA.	Yes	For CO standard if using RATA alternative.
§ 63.10(b)(2)(xiv)	Records of supporting documentation	Yes.	
§ 63.10(b)(3)	Records of applicability determination	Yes.	
§ 63.10(c)	Additional records for sources using CEMS.	Yes	Except that § 63.10(c)(2)–(4) and (9) are reserved.
§ 63.10(d)(1)	General reporting requirements	Yes.	
§ 63.10(d)(2)	Report of performance test results	Yes.	
§ 63.10(d)(3)	Reporting opacity or VE observations	No	Subpart ZZZZ does not contain opacity or VE standards.
§ 63.10(d)(4)	Progress reports	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	No.	
§ 63.10(e)(1) and (2)(i)	Additional CMS Reports	Yes.	
§ 63.10(e)(2)(ii)	COMS-related report	No	Subpart ZZZZ does not require COMS.

TABLE 8 TO SUBPART ZZZZ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART ZZZZ—Continued

[As stated in § 63.6665, you must comply with the following applicable general provisions]

General provisions citation	Subject of citation	Applies to subpart	Explanation
§ 63.10(e)(3)	Excess emission and parameter exceedances reports.	No	Excess emissions and exceedance reporting is specified in § 63.6650.
§ 63.10(e)(4)	Reporting COMS data	No	Subpart ZZZZ does not require COMS.
§ 63.10(f)	Waiver for recordkeeping/reporting	Yes.	
§ 63.11	Flares	No.	
§ 63.12	State authority and delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes.	
§ 63.15	Availability of information	Yes.	

[FR Doc. 2024–18766 Filed 8–29–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0409; FRL–12214–01–OCSPP]

RIN 2070–ZA16

Phenol; Revoking Exemption From the Requirement of a Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation revokes the tolerance exemption for residues of the antimicrobial pesticide ingredient phenol when used as an inert ingredient (solvent/cosolvent) in pesticide formulations applied to growing crops. This rulemaking is established on the Agency's own initiative under the Federal Food, Drug, and Cosmetic Act (FFDCA) to implement a tolerance action the Agency determined was appropriate during the registration review conducted under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for phenol.

DATES: This regulation is effective February 26, 2025. Objections and requests for hearings must be received on or before October 29, 2024, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2023–0409, is available at *https://www.regulations.gov* or in person at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. Additional instructions for visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Anita Pease, Antimicrobials Division (7510M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–566–0736; email address: *Pease.Anita@epa.gov* or *ADFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

- Crop production (NAICS code 111), *e.g.,* agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), *e.g.,* cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), *e.g.,* agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), *e.g.,* agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

You may access a frequently updated electronic version of 40 CFR part 180 through the **Federal Register** Office's e-CFR site at *https://www.ecfr.gov/current/title-40.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2023–0409 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 29, 2024. Notwithstanding the procedural requirements of 40 CFR 178.25(b), the Office of the Administrative Law Judges has issued an order urging parties to file and serve documents with the Tribunal by electronic means only. *See Revised Order Urging Electronic Filing and Service* (dated June 22, 2023), *https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2023–0409, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2019–0392; FRL–5949.1–03–OAR]

RIN 2060–AV70

National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is promulgating amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Rubber Tire Manufacturing, as required by the Clean Air Act (CAA). To ensure that all emissions of hazardous air pollutants (HAP) from sources in the source category are regulated, the EPA is promulgating emissions standards for the rubber processing subcategory of the rubber tire manufacturing industry, which is the only unregulated subcategory within the Rubber Tire Manufacturing source category.

DATES: This final rule is effective on November 29, 2024. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of November 29, 2024.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2019–0392. 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 as pdf versions that can only be accessed on the EPA computers in the docket office reading room. Certain databases and physical items cannot be downloaded from the docket but may be requested by contacting the docket office at 202–566–1744. The docket office has up to 10 business days to respond to these requests. With the exception of such material, publicly available docket materials are available electronically at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact U.S. EPA, Attn: Mr. Korbin Smith, Sector Policies and Programs Division, Mail Drop: D243–04, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–2416; and email address: *smith.korbin@epa.gov.*

SUPPLEMENTARY INFORMATION: *Preamble acronyms and abbreviations.* Throughout this document the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

3xRDL three times the representative detection level
BDL below detection limit
BLDS bag leak detection system
CBI Confidential Business Information
CEMS continuous emission monitoring system
CFR Code of Federal Regulations
DLL detection level limited
DRE destruction and removal efficiency
EPA Environmental Protection Agency
fPM filterable particulate matter
g gram
g/Mg grams per megagram
HAP hazardous air pollutant(s)
ICR information collection request
km kilometer
lb pound
lb/Mton pounds per million tons
lb/ton pounds per ton
MACT maximum achievable control technology
Mg megagram
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PAH polycyclic aromatic hydrocarbon
PM particulate matter
ppm parts per million
PRA Paperwork Reduction Act
RDL representative detection level
RFA Regulatory Flexibility Act
RTO regenerative thermal oxidizer
RTR risk and technology review
SSM startup, shutdown, and malfunction
THC total hydrocarbons
the court United States Court of Appeals for the District of Columbia Circuit
µg/Nm3 microgram per normal cubic meter
UMRA Unfunded Mandates Reform Act
UPL upper predictive limit
VCS voluntary consensus standards
VOC volatile organic compound

Background information. On November 16, 2023, the EPA proposed revisions to the Rubber Tire Manufacturing NESHAP (88 FR 78692), specifically standards for the rubber processing subcategory of the rubber tire manufacturing industry, to ensure that all emissions of HAP from sources in the source category are regulated. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in *Comment Summary and Response Document for Proposed NESHAP for Rubber Processing in the Rubber Tire Manufacturing Industry,* Docket ID No. EPA–HQ–OAR–2019–0392. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

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

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What is the Rubber Tire Manufacturing source category and how does the NESHAP regulate HAP emissions from the source category?
C. What changes did we propose for the Rubber Tire Manufacturing source category in our November 16, 2023, proposal?
D. What outreach did we conduct following the proposal?
III. What is included in this final rule?
A. What are the final rule amendments pursuant to CAA sections 112(d)(2) and (3) for the Rubber Tire Manufacturing source category?
B. What other changes have been made to the NESHAP?
C. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the Rubber Tire Manufacturing source category?
A. Emission Standards for Unregulated Organic HAP Emissions from the Rubber Processing Subcategory
B. Emission Standards for Unregulated Metal HAP Emissions from the Rubber Processing Subcategory
C. Emission Testing and Compliance Demonstrations
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?

VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and Executive Order 14094: Modernizing Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All
K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

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

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

NESHAP and source category	NAICS [1] code
Rubber Tire Manufacturing (40 CFR part 63, subpart XXXX).	326211, 326212, 314992.

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

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

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

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

C. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the court) by January 28, 2025. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

II. Background

A. What is the statutory authority for this action?

On November 16, 2023, the EPA proposed revisions to the NESHAP for Rubber Tire Manufacturing.[1] The EPA is finalizing in this action amendments to the NESHAP to ensure that all emissions of HAP from sources in the source category are regulated.

In the *Louisiana Environmental Action Network* v. *EPA* (LEAN) decision issued on April 21, 2020, the United States Court of Appeals for the District of Columbia Circuit held that the EPA has an obligation to address unregulated emissions from a major source category when the Agency conducts the 8-year technology review.[2] In setting standards for major source categories under CAA 112(d), EPA has the obligation to address all HAP listed under CAA 112((b).[3] The amendments in this rulemaking address currently unregulated emissions of HAP from the Rubber Tire Manufacturing source category, specifically from the rubber processing subcategory. Available data indicate the following unregulated pollutants are emitted from the source category: organic HAP compounds and metallic HAP compounds. Therefore, the EPA is finalizing standards that reflect maximum achievable control technology (MACT) for these pollutants emitted by the source category, pursuant to CAA sections 112(d)(2) and (3). Additionally, in accordance with CAA, costs are not considered when setting these initial MACT standards.

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

The EPA promulgated the initial Rubber Tire Manufacturing NESHAP on July 9, 2002 (67 FR 45598). The standards are codified in the Code of Federal Regulations (CFR) at 40 CFR part 63, subpart XXXX. The Rubber Tire Manufacturing source category consists of facilities that produce rubber tire components including but not limited to rubber compounds, sidewalls, tread, tire beads, tire cord, and liners. The source category covered by the NESHAP currently includes 15 major source facilities.Since first established, the Rubber Tire Manufacturing source category has been split into 4 subcategories for different phases of rubber tire manufacturing. These subcategories include rubber processing, tire production, tire cord production, and puncture sealant application. In the original Rubber Tire Manufactuing NESHAP, emission limits were established for tire production, tire cord production and puncture sealant

[1] 88 FR78962, November 16, 2023.

[2] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020) (''LEAN'').

[3] *See Desert Citizens Against Pollution* v. *EPA,* 699 F3d 524, 527 (D.C. Cir. 2012) (''[W]e have read subparagraphs (1) and (3) of section 112(d) to require the regulations of all HAPs listed in section 112(b)(1)'' citations omitted).

application but no standards were established for rubber processing.

The 2002 NESHAP for the Rubber Tire Manufacturing source category (67 FR 45598) established emission limits on a subcategory basis as follows.

1. Rubber Processing

There are currently no emission limits for the rubber processing subcategory. The EPA proposed emission limits for the rubber processing subcategory on November 16, 2023, and the EPA is finalizing emission limits for this subcategory with this action.

2. Tire Production

There are 2 equivalent standards for the tire production subcategory, and sources can comply with either standard. The first standard, is based on HAP materials purchased and used in the process. This standard considers that the quantity of HAP material purchased will represent the amount of HAP emitted for uncontrolled processes. The emission limit requires that emissions of each HAP in table 21 to 40 CFR part 63, subpart XXXX, that is used in the tire production process not exceed 1,000 grams (g) HAP per megagram (Mg) (2 pounds per ton (lb/ton)) of total cements and solvents used at the tire production affected source, and requires that the amount of each HAP not in table 21 to 40 CFR part 63, subpart XXXX, that is used in the tire production process not exceed 10,000 g HAP per Mg (20 lb/ton) of total cements and solvents used at the tire production affected source.

The second standard is a production-based emission-limit option. A production-based standard sets a quantity of emissions allowed per unit of production (*i.e.,* amount of HAP emitted per ton of rubber produced). For this option, emissions of HAP must not exceed 0.024 grams per megagram (g/Mg), (0.00005 lb/ton) of rubber processed at the tire production affected source.

3. Tire Cord Production

There are 3 standards for the tire cord production subcategory, and sources can choose which standard to comply with within this subcategory, depending, in part, on whether the source is an existing or new source. The first standard is a production-based emission-limit option for existing tire cord production affected sources. As part of this standard, emissions must not exceed 280 g HAP per Mg (0.56 lb/ton) of fabric processed at the tire cord production affected source for the monthly average.

The second standard is a production-based emission-limit option for new or reconstructed tire cord production affected sources. As part of this standard, emissions must not exceed 220 g HAP per Mg (0.43 lb/ton) of fabric processed at the tire cord production affected source.

The third standard is a HAP constituent emission-limit option available to both existing and new or reconstructed tire cord production affected sources. A HAP constituent standard requires that no material be purchased and used at an affected facility that contains HAP in amounts above a specific composition limit. To comply with this standard, emissions of each HAP in table 16 to 40 CFR part 63, subpart XXXX, that is used in the tire cord production process must not exceed 1,000 g HAP per Mg (2 lb/ton) of total coatings used at the tire cord production affected source, and emissions of each HAP not in table 16 to 40 CFR part 63, subpart XXXX, that is used in the tire cord production process must not exceed 10,000 g HAP per Mg (20 lb/ton) of total coatings used at the tire cord production affected source.

4. Puncture Sealant Application

There are 3 equivalent standards for the puncture sealant application subcategory, and sources can choose which standard to comply with within this subcategory depending, in part, on whether the source is an existing or new source. The first standard is a percent reduction emission-limit option for existing puncture sealant application spray booths. As part of this standard, facilities are required to reduce spray booth HAP (measured as volatile organic compounds (VOCs)) emissions by at least 86 percent by weight.

The second standard is a percent reduction emission-limit option for new or reconstructed puncture sealant application spray booths. As part of this standard, facilities are required to reduce spray booth HAP (measured as VOCs) emissions by at least 95 percent by weight.

The third standard is a HAP constituent emission-limit option for both existing and new or reconstructed puncture sealant application spray booths. As part of this standard, emissions of each HAP in table 16 to 40 CFR part 63, subpart XXXX, must not exceed 1,000 g HAP per Mg (2 lb/ton) of total puncture sealants used at the puncture sealant affected source, and emissions of each HAP not in table 16 to 40 CFR part 63, subpart XXXX, must not exceed 10,000 g HAP per Mg (20 lb/ton) of total puncture sealants used at the puncture sealant affected source.

5. Alternatives for Meeting Emission Limits

Compliance alternatives are available for the 3 subcategories currently subject to emission limits (tire production, tire cord production, and puncture sealant application) to meet the emission limits mentioned earlier in section II.B. of this preamble. For more information on these compliance alternatives, a detailed breakdown of the compliance alternatives for these subcategories may be found at 40 CFR 63.5985, 40 CFR 63.5987, and 40 CFR 63.5989, for tire production, tire cord production, and puncture sealant application, respectively. These alternatives are also summarized here.

For tire production, alternatives for showing compliance are available for both emission standards. For the standard option based on the materials purchased and used the alternatives are to use only cements and solvents that as purchased contain no more HAP than allowed by the specified emission limitations; use cements and solvents such that the monthly average HAP emissions meet the specified emission limitations; or use control devices to reduce HAP emissions such that the monthly average HAP emissions meet the specified emission limitations. For the production-based standard option the alternatives are to use cements and solvents such that the monthly average HAP emissions meet the specified emissions limitations; or use control devices to reduce HAP emissions such that the monthly average HAP emissions meet the specified emission limitations.

For tire cord production there are two alternative compliance options: use coating solutions such that the monthly average HAP emissions do not exceed the applicable emission limit; or use a control device to reduce HAP emissions such that the monthly average HAP emissions do not exceed the applicable emission limitation.

For puncture sealant application, there are two alternative compliance options: use an emissions capture system and control device and demonstrate that the application booth emissions meet the specified emission limitations and operating limits; or use a permanent total enclosure that satisfies the Method 204 criteria in 40 CFR part 51 and demonstrate that the control device meets the specified operating limits and reduces at least 86 percent of emissions for existing sources and 95 percent of emissions for new sources.

6. Recent Actions Relating to the NESHAP for the Rubber Tire Manufacturing Source Category

In the 2020 Risk and Technology Review (RTR) (85 FR 44752), the EPA found that the risk associated with air emissions from rubber tire manufacturing was acceptable considering all the health information and factors evaluated, and risk estimation uncertainty. The EPA found that the current NESHAP provides an ample margin of safety to protect public health and to prevent an adverse environmental effect. The EPA determined that there were no developments in practices, processes, or control technologies that warranted revisions to the MACT standards under CAA section 112(d)(6). Based on the analysis conducted as part of the RTR, no revisions to the numerical emission limits were made for any of the Rubber Tire Manufacturing subcategories. The 2020 RTR addressed periods of startup, shutdown, and malfunction (SSM) by clarifying that emissions during SSM operations are subject to the NESHAP. In addition, the 2020 amendments included provisions requiring electronic reporting of performance test results and reports, compliance reports, and Notification of Compliance Status reports.

C. What changes did we propose for the Rubber Tire Manufacturing source category in our November 16, 2023, proposal?

In response to the *LEAN* decision requiring the EPA to ensure that missing emission standards are promulgated when the EPA undertakes a 112(d)(6) technology review, on November 16, 2023, the EPA published a proposed rule in the **Federal Register** for the Rubber Tire Manufacturing NESHAP, 40 CFR part 63, subpart XXXX, that took into consideration the MACT analyses for the rubber processing subcategory. In the proposed rule, the EPA proposed numerical emissions limits for the rubber processing subcategory of the rubber tire manufacturing industry, which is the only unregulated subcategory within the Rubber Tire Manufacturing source category with unregulated HAP.

Additionally, EPA solicited comment on several aspects of the proposed rulemaking. EPA solicited comment on the use of THC as a surrogate for organic HAP, as well as on the EPA's approach to testing for THC, as opposed to testing for individual speciated organic HAP. EPA solicited comment on the use of THC as a surrogate in place of setting emission limits for PAHs, specifically. EPA solicited comment on our approach regarding the 30-day THC data. EPA solicited comment on the proposed approach to addressing negative THC values. EPA solicited comment on the proposed compliance periods, and specifically requested submission of information from sources in this source category regarding specific actions that would need to be undertaken to comply with the proposed amended provisions and the time needed to make the adjustments for compliance with any of the revised provisions.

The EPA proposed to establish MACT standards for the rubber processing subcategory for total hydrocarbons (THC) as a surrogate for organic HAP. For these MACT standards, we proposed a THC emission limit for mixers processing silica containing compounds and a THC emission limit for mixers processing non-silica containing compounds. Both limits were based on a 15-day rolling average.

The EPA also proposed MACT standards for filterable particulate matter (fPM) and metal HAP. The emission limits proposed for new and existing sources were an emissions limit for fPM, as a surrogate for metal HAP, with an emission limit for total metal HAP as an alternative.

D. What outreach did we conduct following the proposal?

Following publication of the proposed rule, the EPA offered the opportunity for a public hearing, but none was requested. However, the USTMA did request a meeting with the EPA, and the EPA and USTMA met in May 2024 and USTMA discussed supplemental testing performed by USTMA and the use of THC as a surrogate for organic HAP. A summary of that meeting is in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2019–0392).

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the MACT provisions of CAA section 112(d)(2) and (3) for the Rubber Tire Manufacturing source category and sets emission limitations for the rubber tire processing subcategory within the Rubber Tire Manufacturing NESHAP based on those determinations.

A. What are the final rule amendments pursuant to CAA sections 112(d)(2) and (3) for the Rubber Tire Manufacturing source category?

We are establishing MACT standards for the rubber processing subcategory in the rubber tire manufacturing source category, as required by the CAA. To satisfy the requirements of CAA section 112(d)(2) and (3), we are revising the NESHAP to include emissions limitations for the previously unregulated rubber processing subcategory including limitations for THC, as a surrogate for organic HAP emissions; fPM, as a surrogate for metal HAP; and an alternative limit for metal HAP. The standards in this final rule are similar in format to those in the proposed rule, but with updates to the standards based on public comments and additional data received and analyzed for the final rule. In the proposal, the EPA included separate THC standards for silica-containing and non-silica-containing processed rubber. Based on comments and data received during the comment period, the EPA is establishing a single MACT standard, instead of setting separate standards for the mixing of silica-containing and non-silica containing compounds, as proposed. The same THC standard is being established for both new and existing facilities and is based on 3 times the representative detection level (3xRDL) since this value is larger than the calculated Upper Prediction Limit (UPL) for THC.[4] Also based on the public comments, the final rule is allowing facility-wide averaging of the individual emissions from each mixer to demonstrate compliance with the THC emission limits.

The final rule is also setting standards for fPM, as a surrogate for metal HAP, and an alternative standard for metal HAP, with the same standards applying for new and existing facilities. The final standards for fPM and metal HAP are also based on the 3xRDL value for fPM and metal HAP, since this value is larger than the calculated UPL. Also based on the public comments, the final rule is allowing facility-wide averaging of the individual emissions from each mixer to demonstrate compliance with the fPM emission limits.

1. Polycyclic Aromatic Hydrocarbons

The EPA received data from 5 facilities for polycyclic aromatic hydrocarbon (PAH) emissions. The PAH compounds measured were aniline, dibenzofuran, hydroquinone, naphthalene, and o-toluidine. The PAH emissions were collected using U.S. EPA SW–846 Method 0010, extracted

[4] It is the practice of the EPA to use the higher of the calculated UPL and 3xRDL value when setting an emission limit, as describedin the memorandum, *Data and Procedure for Handling Below Detection Level Data in Analyzing Various Pollutant Emissions Databases for MACT and RTR Emissions Limits*, which is available in the docket for this rulemaking.

using Method 3542, and analyzed using Method 8270E.[5]

Many of the measured emissions for the PAH compounds were below the detection limit (BDL) of the approved testing method, and others were detection level limited (DLL). Results are considered BDL when every measured result for a compound in a test run is less than the laboratory's reported detection level.[6] Data is considered DLL when only some results in a given test run are less than the laboratory's reported detection level for that compound. The Agency's practice in establishing emission limits for pollutants with DLL values is to use the DLL value to calculate the UPL and then to compare the calculated UPL to a value that is 3 times the pollutant's RDL (3xRDL value). Consistent with our practice described in the aforementioned memo,[7] the larger of the UPL calculation or the 3xRDL value becomes the emission limit. Reported levels of 2 PAH compounds—dibenzofuran and hydroquinone—are BDL at each facility; therefore, the EPA did not propose and is not promulgating emission limits for dibenzofuran or hydroquinone. The EPA has no data indicating the presence of polychlorinated dioxins or polychlorinated dibenzofurans, and measured unpolychlorinated dibenzofuran values are BDL, therefore, the EPA did not propose and is not promulgating separate emission limits for dioxin-like compounds.

The test results for the remaining PAH species—aniline, naphthalene, and o-toluidine—were DLL. However, these PAH species are also organic HAP and hydrocarbons and will be accounted for in THC measurements. As such, setting both a separate PAH standard in addition to a THC standard would be redundant and doubly regulate PAH emissions. In order to prevent this redundance, the EPA did not propose and is not promulgating a separate emission limit for PAHs and instead proposed and is promulgating a limit for THC emissions, which will encompass PAHs. The THC results include the effect of PAH, other organic HAP, and VOC contained in exhaust streams and are well suited to serve as surrogates for these compounds.

A detailed description of the analysis of the PAH data is included in the memorandum, *Final Rule Maximum Achievable Control Technology (MACT) Analysis for the Rubber Processing Subcategory in the Rubber Tire Manufacturing Industry,* located in the docket for this action (Docket ID No. EPA–HQ–OAR–2019–0392).

2. Total Hydrocarbon Emissions

a. THC Existing Source Standard

The EPA determined the existing source MACT floor THC emission limit based on the top 2 performing mixers. There are 97 mixers; for a source category of this size, the CAA requires the EPA to use the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information) when establishing the MACT floor level of control. The EPA has THC data measured for 12 mixers, and 12 percent of 12 mixers is 1.44 mixers, which we rounded up to 2 mixers for purposes of determining the existing source MACT floor. The EPA received THC data from an additional 5 mixers as a result of the ICR, but these data represented the uncontrolled emissions from units that were collected prior to the emission stream entering a regenerative thermal oxidizer (RTO) and the EPA did not have data for the controlled emissions, which would be collected after the exhaust stream has passed through the RTO. In response to comments, the EPA determined the destruction and removal efficiency (DRE) of an RTO can vary depending on the THC inlet concentration, thus a reported DRE measured at one THC concentration may not be applicable to the THC concentrations observed for these mixers. As such, without specifically measuring DRE values for each THC concentration, accurate controlled emissions could not be determined for these 5 mixers by applying the reported DRE to emissions prior to the control device. While it is expected that emissions from these controlled mixers would be low, the EPA does not have post-control emission data from these mixers. As a result, the EPA is not including these 5 mixers in the MACT analysis.

When determining the best performing 12 percent of existing sources for the MACT floor pool, we round fractional amounts to the next whole number to ensure that the MACT floor calculations are based on no fewer than the best performing 12 percent of existing sources. In this instance, we rounded up to 2 mixers for determining the existing source MACT floor. The EPA is promulgating the MACT floor THC emission limit for existing sources based on the average 15-day emission rate achieved by the 2 best performing (*i.e.* lowest emitting) mixers. From the data available, the 2 best performing mixers are Continental Mt. Vernon mixer #22, which is controlled by an RTO, and Goodyear Fayetteville mixer #4, which has no control device for THC. For these 2 best performing mixers, the EPA included each mixer's daily average THC emission rate in a list and then calculated 15-day rolling averages from the combined daily averages. The 15-day rolling averages were then used to calculate the 15-day UPL THC emission rate in g/Mg rubber produced, which was 24 g/Mg.

The EPA-calculated THC emission limits for existing mixers are based on the calculated 99 percent UPL or 3xRDL, whichever is higher, calculated from the 15-day rolling averages of the data combined from the 2 mixers.

The 3xRDL for THC for the 2 combined mixers is 63.1 g/Mg rubber produced. Because the 3xRDL value is higher than the calculated UPL value from the 2 combined mixers, and because the EPA rounds up when simplifying to 2 significant figures, the existing source THC limit in the final rule is 64 g/Mg rubber produced. You may choose to comply with the THC emission limit for each rubber processing mixer separately, or for a group of rubber processing mixers routed to the same control device or stack, the emissions and amount of rubber processed for the connected mixers can be combined. Additionally, an alternative facility-wide average for THC emissions for all mixers is discussed in section A.2.d.

The maximum THC parts per million (ppm) value (from minute-to-minute analysis provided during the information collection request (ICR)) from the 2 best performers is 25 ppm, so an appropriate instrument range is 0 to 50 ppm, which leads to an RDL value of 3.082 ppm and a 3xRDL value of 9.25 ppm. For additional information on how the EPA calculated these RDL values please see the memorandum titled *Measurement Detection Capabilities for EPA for Instrumental Test Methods* located in the docket for this rule. When this 3xRDL value is combined with the average flow rate, and production of the best performers, the result is 63.1 g/Mg rubber produced. Since the 3xRDL value is higher than the UPL value of 24 g/Mg rubber produced, the 3xRDL value (63.1 g/Mg) is the basis for the existing source MACT floor for all rubber processing, which is then set to 64 g/Mg.

[5] *https://www.epa.gov/hw-sw846/sw/846/compendium.*

[6] In keeping with the EPA's practice, when all pollutant values fall below BDL, no emission limit should be established for that pollutant.

[7] See the memorandum *Data and Procedure for Handling Below Detection Level Data in Analyzing Various Pollutant Emissions Databases for MACT and RTR Emissions Limits,* which is available in the docket for this rulemaking.

Of the 12 mixers for which the EPA has measured emissions, 4 mixers (33 percent) have emissions (based on their calculated UPL) that are estimated to be greater than the final rule THC limit of 64 g/Mg rubber produced (rounded to 2 significant figures) and thus would need to install a control device. Therefore, we estimate that 33 percent of the 97 mixers (33 mixers) located at major sources would need to be controlled (*e.g.,* by an RTO) to meet the final rule limit.

Based on data received in response to the CAA section 114 information request, which shows on average currently installed RTOs are shared by 3 co-located mixers, EPA estimates, on average, one RTO will be shared by 3 mixers for any new RTOs installed as a result of this rulemaking. Accounting for the current number of mixers and RTOs at each major source facility, the EPA estimates that a total of 17 RTOs (corresponding to a total of 35 mixers) would likely be needed to comply with this final rule. Given that 9 RTOs already exist at the regulated facilities at issue, the EPA expects that the cumulative impact to industry would be the installation of 8 new RTOs. EPA acknowledges it is possible some facilities may choose to comply with the rule through a variety of technology pathways including the installation of boilers instead of RTOs or a different ratio of RTOs to mixers than assumed in this analysis. However, EPA has no way of accurately knowing how facilities will choose to comply thus we are unable to determine exactly what business decisions firms will make. For additional information on how EPA calculated the amount of RTOs likely to be installed for this rulemaking see the memo ''Rubber Processing Control Costs, Emission Reductions, and Cost Effectiveness'' available in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2019–0392).

b. THC Beyond-The-Floor Existing Source Standard

In addition to determining the MACT floor level of control, as a second step in the standard-setting process, the EPA must also examine whether to adopt additional, and more stringent, ''beyond-the-floor'' regulatory options. The first step, as discussed in the preceding section, requires the establishment of an emission floor—developed under CAA section 112(d)(3). The second step requires consideration of whether additional reductions are achievable, taking into account the factors listed in section 112(d)(2) (*i.e.,* cost, non-air quality health and environmental impacts, and energy requirements). If additional reductions are determined to be achievable, taking these factors into account, the resulting emissions standards are referred to as ''beyond-the-floor'' MACT standards.[8]

Unlike the MACT floor, which represents the minimum stringency requirement, the EPA must consider various impacts of more stringent regulatory options when considering beyond-the-floor options. If the EPA concludes that the more stringent regulatory options are not reasonable, then EPA selects the MACT floor as the final MACT standard. However, if the EPA concludes that the beyond-the-floor levels of control are reasonable, when considering additional emissions reductions that would be achieved, then those beyond-the-floor measures represent the applicable MACT standard.

As part of our beyond-the-floor analysis, we identify control options or techniques that could achieve emission reductions beyond the MACT floor level of control. The EPA did not identify any control options or techniques other than what is currently used (*i.e.,* an RTO) that could serve as a basis for establishing a limit beyond the MACT floor.

In addition to the lack of additional control options, the MACT floor limit for the existing source category already reflects the lowest concentration that can be reliably measured. Following the EPA's well-established approach to determining MACT floor limits, the EPA is finalizing a MACT floor limit for the existing source category that is based on the 3xRDL value. This is because—for the measurement method and data—the value of 3xRDL is higher than the combined calculated UPL for the 2 best performing sources. This MACT floor limit based on 3xRDL reflects the detection limit of the measurement method and represents the lowest concentration that can be reliably measured. Because no further measurable reductions can be achieved from these sources, EPA is unable to adopt a beyond-the-floor limit in this action.

c. THC New Source Standard

The THC MACT emission limits for new sources are based on the emission limitation achieved by the single best performing similar source. However, as stated above the MACT floor limit is based on the 3xRDL value for the measurement method and data because the 3xRDL value is higher than the combined UPL, and thus represents the lowest level at which THC can be reliably detected. Because the MACT floor limit is based on the 3xRDL value for the THC measurements, it is not feasible to establish a lower limit. Therefore, the final MACT standard for new and existing mixers is the MACT floor limit and is 64 g/Mg. You may choose to comply with the THC emission limit for each rubber processing mixer separately, or for a group of rubber processing mixers routed to the same control device or stack, the emissions and amount of rubber processed for the connected mixers can be combined. Additionally, an alternative facility-wide average for THC emissions for all mixers is discussed in section A.2.d.

d. Alternative THC Standard: Facility-Wide Averaging

In response to the proposed rule, the EPA received public comment regarding the potential for a facility-wide standard. Upon review, the EPA is establishing an alternative standard based on facility-wide averaging. Averaging across rubber mixers is appropriate, and consistent with CAA section 112(d)(2)–(3), because the total quantity of HAP that may be emitted by the regulated source is not greater than if each mixer complied separately with the applicable standard. For additional information on EPA's decision to include facility-wide averaging, see the Response to Comments document available in the docket for this rule (Docket ID No. EPA–HQ–OAR–2019–0392). This standard is based on averaging the individual emissions of each mixer at a facility. For an individual mixer, the THC emission limit for both new and existing sources is 64 g/Mg (1.3×10^5 lb/Mton) of rubber processed; thus, the average for all mixers across a facility is also 64 g/Mg. Because the THC emission limit is already set at the 3xRDL level, no emissions discount is applied for setting the standard for facility-wide averaging. To comply based on averaging, the facility would sum the emissions from all mixers at the facility over a 15-day period and divide the sum of the emissions by the sum of the rubber processed in all of the mixers at the facility over the same 15-day period.

3. Particulate Matter and Metal HAP

a. Existing Source Standard

Based on responses to the CAA section 114 information request, the

[8] CAA section 112(d)(2) provides, in pertinent part, that emissions standards promulgated under section 112 ''shall require the maximum degree of reduction in emisions of the hazardous air pollutants,'' after taking into consideration ''the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements,'' which EPA ''determines is achievable.''

EPA has fPM data from 7 mixers and of those metal HAP data is available from 5 of the mixers. The EPA had no reason to assume a difference in fPM and metal HAP emissions based on the mixing of silica-containing or non-silica-containing compounds. Thus, a single emission standard was calculated for mixing all classes of rubber compounds. For each mixer, the EPA calculated the 99 percent UPL for both fPM and the sum of the metal HAP that were measured (antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, phosphorous, and selenium).

Detailed data by individual run and for each metal HAP, as well as total metal HAP and fPM, were provided and are summarized in the memorandum, *Final Rule Maximum Achievable Control Technology (MACT) Analysis for the Rubber Processing Subcategory in the Rubber Tire Manufacturing Industry,* included in the docket for this rulemaking. In the metal HAP measurements for Continental, Mt. Vernon, the phosphorous data were unreliable because of a contaminated reagent and are not included in the table and in the total metals. The PM data provided from USTMA before proposal for Danville mixers #5 and #7 were the only data containing fPM and corresponding rubber production data. The metal HAP data provided for Danville mixers #5 and #7 by USTMA before proposal were not in the format needed to calculate production-based emission rates.

After proposal, the EPA also received additional fPM data from USTMA for 4 mixers as part of their public comments, and these data are also summarized in *Final Rule Maximum Achievable Control Technology (MACT) Analysis for the Rubber Processing Subcategory in the Rubber Tire Manufacturing Industry* memorandum, available in the docket for this rule (Docket ID EPA–HQ–OAR–2019–0392). The data for 3 mixers consisted of at least 3 runs, which is consistent with the fPM testing that the EPA requested in the ICR, and the data for the fourth mixer consisted of only 2 runs, which is fewer than the minimum number of runs requested in the ICR and the number needed to calculate a UPL value.

There are 97 mixers; for a source category of this size, the CAA requires the EPA to determine the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has information).

The EPA has metal HAP data from 5 mixers. The EPA calculated 12 percent of 5 mixers for metal HAP, which results in 0.6. When determining the best performing 12 percent of existing sources for the MACT floor pool, we round fractional amounts to the next whole number to ensure that the MACT floor calculations are based on no fewer than the best performing 12 percent of existing sources. In this instance, we rounded the value of 0.6 up to one mixer for purposes of determining the existing source MACT floor for metal HAP.

Since the EPA has fPM emissions data from a total of 10 mixers for which UPL values could be calculated, the MACT floor final rule limit for fPM is based on 12 percent of 10 mixers, which is 1.2. This includes the 7 tests from the EPA ICR, and 3 of the tests from USTMA for which a UPL value could be calculated. When determining the best performing 12 percent of existing sources for the MACT floor pool, we round fractional amounts to the next whole number to ensure that the MACT floor calculations are based on no fewer than the best performing 12 percent of existing sources. In this instance, we rounded the fPM of 1.2 up to 2 and the metal HAP value of 0.6 to one mixer for purposes of determining the existing source MACT. Because metal HAP are emitted as fPM, the EPA is using fPM as a surrogate for metal HAP. Additionally, the EPA is finalizing an alternative emission limit for total metal HAP. Data gathered from the CAA section 114 information request identified that the primary control devices utilized for metal HAP emissions on rubber tire mixers are baghouses and capture of fPM will reliably indicate capture of metal HAP. It is also practical to use fPM as a surrogate for metal HAP because the fPM emission limit accounts for variability in individual metal HAP emission rates among different batches of rubber compound being mixed.

The EPA calculated the UPL for fPM as 2.5 g/Mg (4900 lb/Mton) of rubber produced and total metal HAP emission rate of 3.7×10^{-2} g/Mg (74 lb/Mton) rubber produced. The lowest fPM UPL emission rate and the lowest metal HAP emission rate were measured at the same mixer, and the fPM and metal HAP emissions were measured simultaneously.

The EPA calculated the 3xRDL for fPM using the average flow rate of the top 2 mixers. The average flow rate was 9,622 dry standard cubic feet per minute (dscfm) and average production rate was 17.98 tons per hour (ton/hr) for Goodyear Lawton Mixer #1 and Goodyear Danville Mixer #7 as representative values. The calculations also used a fPM RDL of 2 mg and 3xRDL of 6 mg in a sample volume of 2 dscm, or 3 mg/dscm. These values would provide a fPM 3xRDL value of 3.0 g/Mg (6,000 lb/Mton) rubber processed. These calculations are detailed in the MACT memo for the final rule. Because the 3xRDL value is greater than the UPL, the final rule fPM emission limit is based on the 3xRDLvalue instead of the 99-percent UPL value. Rounded to 2 significant figures, this limit is 3.0 g/Mg (6.0×10^{3} lb/Mton).

The EPA also used the flow and production data from Goodyear Lawton Mixer #1 (top performer) to calculate the 3xRDL value for total metal HAP. The calculations used the RDL values for each metal HAP in a sample volume of 2 dscf. The total metal HAP 3xRDL value is 109.7 µg in a sample volume of 2 dscm, or a value of 5.4×10^{-2} g/Mg rubber (110 lb/Mton) rubber processed using the flow and production data for Goodyear Lawton Mixer #1. Because the 3xRDL value is greater than the UPL, the final rule total metal alternative emission limit is based on the 3xRDL value instead of the UPL value. Rounded to 2 significant figures, this limit is 5.4×10^{-2} g/Mg rubber (110 lb/Mton). These calculations are detailed in the memorandum titled *Final Rule Maximum Achievable Control Technology (MACT) Analysis for the Rubber Processing Subcategory in the Rubber Tire Manufacturing Industry* found in the docket for this rule.

You may choose to comply with the fPM emission limit (or the total metal HAP alternative) for each rubber processing mixer separately, or for a group of rubber processing mixers routed to the same control device or stack, the emissions and amount of rubber processed for the connected mixers can be combined. Additionally, an alternative facility-wide average of fPM (or total metal HAP) emissions for all mixers is discussed in section A.3.d.

b. New Source Standard

The fPM and the total metal HAP alternative MACT emission limits for new sources are based on the emission limitation achieved by the best controlled similar source. However, as stated above the MACT floor limit is set at the value of the 3xRDL for the measurement method and data because the 3xRDL value is higher than the combined UPL. Because the MACT floor limit is set at the 3xRDL value for both fPM and the total metal alternative measurements, it is not feasible to establish a lower limit. Therefore, the final MACT standard for new and existing mixers is the MACT floor limit and is 3.0 g/Mg (6,000 lb/Mton) rubber processed for fPM and 5.4×10^{-2} g/Mg

rubber (110 lb/Mton) for total metal HAP. You may choose to comply with the fPM emission limit (or the total metal HAP alternative) for each rubber processing mixer separately, or for a group of rubber processing mixers routed to the same control device or stack, the emissions and amount of rubber processed for the connected mixers can be combined. Additionally, an alternative facility-wide average of fPM (or total metal HAP) emissions for all mixers is discussed in section A.3.d.

c. Beyond the Floor Analysis

In addition to determining the MACT floor level of control, the EPA must examine more stringent ''beyond-the-floor'' regulatory options when establishing the applicable MACT emission limitation. Unlike the MACT floor minimum stringency requirements, when considering beyond-the-floor options, the CAA provides that the EPA must consider various impacts of the more stringent regulatory options in determining whether beyond-the-floor measures should be included in a final MACT emission standard. If the EPA concludes that the more stringent regulatory options are not reasonable, then the EPA selects the MACT floor as the final applicable MACT standard. However, if the EPA concludes that the beyond-the-floor levels of control are reasonable considering the additional emissions reductions that would be achieved, the EPA selects those levels as MACT.[9]

As part of our beyond-the-floor analysis, we identify control options or techniques that could achieve emission reductions beyond the MACT floor level of control. The EPA did not identify any control options or techniques other than what is currently used.

The existing source MACT floor limit is set at the value of the 3xRDL for the measurement method and data because the 3xRDL value is higher than the average UPL of the 2 lowest emitting sources for fPM and the UPL of the single lowest emitting source for total metal HAP. For both fPM and total metal HAP, the existing source MACT floor limit is set at the 3xRDL value, which represents the lowest concentration that can be measured. As such, we did not identify additional controls for reducing emissions further because no further reductions can be achieved that are measurable. The final MACT standard for existing mixers is the MACT floor limit and is set at the 3×RDL value.

d. Alternative fPM Standard: Facility-Wide Averaging

In response to the proposed rule, the EPA received public comment regarding the potential for a facility-wide standard. Upon review, the EPA agrees with the commenters, and is establishing an alternative standard based on facility-wide averaging. For additional information on EPA's decision to include facility-wide averaging, see the Response to Comments document available in the docket for this rule (Docket ID No. EPA–HQ–OAR–2019–0392). This standard is based on averaging the individual emissions of every mixer at a facility and can be applied to either the fPM or total metal HAP standard. For an individual mixer, the fPM emission limit for both new and existing sources is 3.0 g/Mg rubber produced (5.4×10^{-2} g/Mg for the total metal HAP alternative). Averaging this limit across all mixers at a facility results in an identical emission limit for the facility-wide alternative. Because the facility-wide average emission limit is identical to the limit for individual mixers, the EPA does not anticipate a difference in the achieved emissions reduction. As stated above, this approach is consistent with CAA section 112(d)(2)–(3), because the total quantity of HAP that may be emitted by the regulated source is not greater than if each mixer complied separately with the applicable standard.

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

We are updating the electronic reporting requirements found in 40 CFR 63.6009(k) and in 40 CFR 63.6010(g) and (h) to reflect new procedures for reporting CBI. The update provides an email address to which source owners and operators can electronically mail CBI to the OAQPS CBI Office when submitting compliance reports.

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

Amendments to the Rubber Tire Manufacturing NESHAP finalized in this rulemaking for adoption under CAA section 112(d)(2) and (3) are subject to the compliance deadlines outlined in the CAA under section 112(i). For existing sources, CAA section 112(i)(3) provides that there shall be compliance ''as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard,'' subject to certain exemptions further detailed in the statute.[10] In determining what compliance period is as ''expeditious as practicable,'' we consider the amount of time needed to plan and construct projects, as well as any time necessary to implement changes in operating procedures. As provided in CAA section 112(i), all new affected sources would comply with these provisions by the effective date of the final amendments to the Rubber Tire Manufacturing NESHAP or upon startup, whichever is later.

The EPA projects that some existing sources may be required to install add-on controls to comply with the emission limits, including new RTOs and new or upgraded baghouses. These sources would require time to design, construct, conduct performance testing, and implement monitoring to comply with the revised provisions. Sources would also be required to install a THC continuous emissions monitoring system (CEMS) and conduct performance testing. Therefore, the final rule allows 3 years for existing sources to comply with the new emission standards. All affected facilities must continue meeting the current provisions of 40 CFR part 63, subpart XXXX, until the applicable compliance date of the amended rule. This final action does not meet the criteria under 5 U.S.C. 804(2), so the revisions to the MACT standards being promulgated by this action are effective on November 29, 2024 as specified in CAA section 112(d)(10).

For all affected sources that commence construction or reconstruction on or before November 16, 2023, the final rule provides 3 years after the effective date of the final rule (or upon startup, whichever is later) for owners and operators to comply with the provisions of this action. For all affected sources that commence construction or reconstruction after November 16, 2023, owners and operators must comply with the provisions by the effective date of the final rule (or upon startup, whichever is later).

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

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the

[9] As discussed in supra section III.A.2.b., EPA evaluates whether additional regulatory measures are appropriate under CAA section 112(d)(2).

[10] *Association of Battery Recyclers* v. *EPA* 716 F.3d 667, 672 (D.C. Cir. 2013) (''Section 112(i)(3)'s 3-year maximum compliance period applies generally to any emission standard . . . promulgated under [section 112]'' (brackets in original).

EPA's responses can be found in the comment summary and response document available in the docket.

A. Emission Standards for Unregulated Organic HAP Emissions From the Rubber Processing Subcategory

1. What did we propose pursuant to CAA section 112(d)(2) and (3) for the Rubber Tire Manufacturing source category?

In the proposed rule, published on November 16, 2023, we proposed emission limits for THC as a surrogate for organic HAP. Separate limits were proposed for mixing silica-containing and non-silica-containing rubber compounds, including different emission limits for new and existing sources. The proposed emission limits were based on the EPA's determination of the MACT floor after options more stringent than the MACT floor were determined to not be feasible or cost-effective. The format of the proposed limits was in grams of THC emitted per megagram of rubber produced over a 15-day period. The proposed limits for existing sources were based on the average emission rate of the top 2 best performing sources, and the limits for new sources were based on the lowest emitting source.

2. How did the analysis pursuant to CAA section 112(d)(2) and (3) change for the Rubber Tire Manufacturing source category?

In the final rule, the EPA is promulgating THC emission limits as a surrogate for organic HAP for rubber processing but has made several changes since proposal. First, the EPA had proposed separate THC emission limits based on the mixing of silica-containing or non-silica-containing compounds because the EPA believed the presence of silica compounds impacted the emission profiles. However, for the final rule the EPA is not promulgating separate standards for mixing silica-containing and non-silica-containing rubber compounds. Second, the final THC emission limits for both new and existing sources are based on the 3xRDL value for THC because that value is higher than the calculated UPL of the 2 best performing sources for THC. Additionally, in response to comments, the EPA is not using data from mixers that tested and reported emissions prior to a control device such as an RTO. At proposal the EPA applied a DRE to the data from mixers that then routed emissions to an RTO, since those streams were combined with other mixers not being tested at that time. Since the EPA does not have true outlet data (outlet of control device) from those mixers, we determined it is inappropriate to use such data to set MACT standards. Finally, the EPA is allowing facilities to demonstrate compliance with the THC emission limit by averaging emissions across mixers at the same facility.

3. What key comments did we receive on the analysis pursuant to CAA section 112(d)(2) and (3), and what are our responses?

Comment: One commenter argued that emissions of organic HAP and THC vary too widely between mixers and even at different times at the same mixer to be practicably measured as the basis for an emission standard. The commenter noted that data already available to the EPA show that emission rates and species of organic HAP can vary depending on the tire component for which the rubber is being mixed, the different raw materials added, and the mixing conditions. The commenter stated that different organic HAP emissions are produced during rubber mixing from small amounts of organic HAP that are contained as impurities in the raw materials and are also generated by the mixing process when natural and synthetic rubbers are mixed at elevated temperatures. The commenter added that each product formulation may include different raw materials and ingredients because the unique combination of the different raw materials and ingredients imparts in a tire compound a specific combination of certain desired tire properties, such as traction, fuel efficiency, noise, vibration, robustness, etc. Thus, according to the commenter, the organic HAP and THC emission profile will differ from tire component to tire component and within the same tire component, between one product formulation and another.

The same commenter added that different passes through the mixer within the rubber mixing process will also impact the levels of organic HAP and THC emissions from rubber mixers with the 3 major passes (initial, middle, and final) being different in terms of the raw materials and ingredients added, heating temperature, and duration. The commenter also noted that each pass specification is different from company to company and sometimes from plant to plant, and the passes that need to be run are different from tire component to tire component. As a result, according to the commenter, each pass will yield significantly different organic HAP and THC emissions, and the same pass at a different tire plant may produce significantly different organic HAP and THC emissions. The commenter stated that these differences in emissions were demonstrated by past industry testing, the testing in response to the EPA's ICR, and by the supplemental testing results submitted with the public comments.

The commenter argued that attempting to determine an appropriate emission limitation using an average of 15 days or longer does not mean that the resulting limitation would be representative of the actual performance of the particular mixers tested for the ICR, let alone the entire range of operations and designs of the nearly 100 mixers at major source tire manufacturing plants. The commenter stated that, depending on when 15 days of sampling were conducted, or which tire component a mixer happened to be processing entirely or primarily during emissions testing, the average THC concentration emitted could be far higher or lower than what would be measured during a different 15-day interval. The commenter added that what each mixer will produce or run, however, is entirely dependent on each tire plant's production quota that it must meet, and it is nearly impossible to forecast more than a couple of weeks in advance what each mixer will produce or run, such that the results of a short-term testing at a mixer that was running a certain combination of product formulation and pass may not be representative or indicative of its emission levels at other times. The commenter stated that impracticably lengthy and wide-ranging testing would be required both to ensure that emission measurement at such mixers can be used to set an emissions standard that the mixer can meet at other times and to demonstrate compliance with such an emissions standard.

Finally, the commenter noted that THC emissions are so variable that the agency proposes in its RTR rule to not only require each mixer to be equipped with a CEMS, but also use a dual-range calibration system to capture the range of different emission levels. The commenter stated that the need to install, operate, and maintain a THC CEMS device at each mixer carries a heavy financial burden which underlines the impracticability of measuring THC emissions at rubber mixers. The commenter estimated that based on EPA's 2007 Cost Tool for CEMS, adjusted with current vendor costs for continuous monitoring systems and updated costs for labor, installing continuous THC monitors for all mixers would impose a capital cost of millions of dollars per facility, with annualized capital and operating costs of around $180,000 to $1.8 million per plant. The

commenter estimated that the cost may be as much as $9 million annually for the rubber tire manufacturing industry to monitor THC emissions.

Response: The EPA disagrees with the commenter's statement that emissions of THC vary too widely to be practicably measured. While the EPA acknowledges that manufacturing rubber tires, like many other manufacturing processes, exhibits variable emissions. However, in phase I of the 114 information collection request, data received showed all known mixers within this source category have stacks where emissions can be measured; as such, emissions measured at these point sources may be used to set a numerical emission standard. The EPA collected from the industry and then processed data that demonstrate this source variability; the EPA obtained from industry test results from a variety of mixers at different facilities that run different types of passes. Data were gathered for 30 days per mixer to account for emissions variability and show representative data during normal operation. Additionally, the EPA set emission limits based on a 15-day average, and the UPL for the mixers, which is an approach used by the EPA in this and other standards, calculated from all 15-day averages in the data from each mixer to account for variability in emissions. Facilities may need to install and operate control devices, such as an RTO or similar control technology, to account for variability while ensuring the emission limit is met.

The Agency agrees with the commenter's assertions that THC CEMS are necessary due to variability, as stressed by the commenter, but disagrees that dual-range calibration systems are required, and further disagrees that industry would be required to pay annualized costs of between $180,000 to $1.8 million per plant. As mentioned earlier, given the potential disparity between and among individual mixer emissions, coupled with the lack of THC data from source owners or operators, the EPA's ICR obtained at least 30 days of continuous THC data per mixer. Source owners or operators may not have known their mixers' THC emissions or potential emission limit during ICR testing; however, now that the THC emission limit is known, source owners need not choose a dual-range THC CEMS; rather they can select an instrument with a range appropriate for the emission limit. Of course, should source owners or operators believe additional calibrated ranges beyond the emission limit are necessary, they are able to select and use multiple ranges—but those additional range choices represent voluntary selection and are not imposed by this rule. The EPA agrees that THC CEMS have the ability to properly measure a wide range of emissions and that they also provide those data continuously, which allows for ongoing compliance demonstration, unlike the sporadic compliance demonstration offered by periodic testing. As an aside, most THC CEMS include a built-in variety of ranges, including site-developed and selected ranges, so source owners or operators should have little trouble narrowing their instruments' focus on a range appropriate to the THC emission limit. EPA's Monitoring and Cost Analysis Tool shows the initial cost of a THC CEMS is less than $145,000 and the annualized cost would be less than $50,000. Finally, the EPA estimated the cost for installing and operating a THC CEMS for each individual mixer.[11] However, it is likely that facilities will choose to share THC CEMS given that one THC CEMS should be able to serve 3 mixers—and perhaps more.

Comment: One commenter argued the EPA should establish work practice standards under CAA section 112(h) instead of numerical emission limits. The commenter stated that the unique characteristics of mixing operations at tire manufacturing facilities imply that not even multiple days of stack testing a single mixer would be sufficient to produce organic HAP or THC emission rates that even that mixer would have a high probability of not exceeding during other periods of operation. The commenter cited Continental's 2019 engineering test at Mixer 22, to argue that when processing a single worst-case rubber formulation or compound most likely to generate highest emissions of ethanol, the resulting THC emissions may be almost 2 times higher than during any other time. The commenter continued by saying if this single worst-case rubber formulation were processed 15 days in a row at Mixer 22, it would generate THC emissions at rates nearly 7 times higher than the EPA's proposed THC emission limit for silica-containing category for existing sources, even after RTO control—despite the fact that the EPA identified Continental Mixer 22 as the best performing mixer among those mixers for which the EPA has test data.

The commenter stated that it would be prohibitively costly and time-consuming to conduct enough stack testing on individual mixers, performed on enough mixers, to determine emission rates representative of the ranges of operations of mixers at tire plants, which would be needed to support establishment of emissions limitations that all mixers would have to meet at all times. The commenter added that even if stack testing could reasonably be accomplished to support emission limitations, modifying dozens of mixers to allow compliance testing, and then conducting enough stack tests on each of those mixers to be assured that measured emissions fall below the emissions limitations, would itself be impracticable.

The commenter argued that mixers, therefore, present a clear example of a type of source for which the measurement of emissions is not practicable due to technological or economic factors, and so work practice standards are authorized and appropriate under CAA section 112(h). The commenter argues that the impracticability of measuring (for purposes of establishing emission limitations, or for purposes of determining compliance) emissions that vary widely over time and over the variety of products manufactured is precisely the kind of situation in which the EPA can and should use work practice standards. As an example, the commenter refers to the EPA rulemaking setting MACT standards for periodic [batch] brick kilns, where the EPA concluded that work standards were appropriate due to the wide variety in emissions over time and products manufactured.

Response: The EPA disagrees with the commenter's statement that the EPA should recognize that conditions at rubber mixers warrant the establishment of work practice standards in lieu of numerical emissions limits. CAA section 112(h) provides, in pertinent part, that the EPA may establish a design, equipment, work practice, or operational standard if it is "not feasible" for EPA to prescribe or enforce an emission standard. CAA section 112(h)(2)(A) further clarifies that the phrase "not feasible to prescribe or enforce an emission standard" includes situations in which "a hazardous air pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant . . ."

The EPA acknowledges that, like many other regulated source categories, rubber processing is a "batch" process. However, as stated in the 2020 RTR (85 FR 44752), rubber processing is a *continuous* batch operation which generates more consistent emissions than other batch processes.

[11] For calculations of the THC CEMS cost, see the memorandum *Final Rule—Rubber Processing Control Costs Emission Reductions, and Cost Effectiveness,* available in the docket for this rule (Docket ID No. EPA–HQ–OAR–2019–0392.

Additionally, a 15-day average inherently reduces the effect of emissions variability and allows owners and operators to determine whether it is necessary to install and operate a control device, such as an RTO, to ensure that the emission limit is met at all times. As verified in the responses to phase I of the ICR, all mixers route to stacks which can and should be used for testing and for emissions measurements to establish appropriate emission limits for the rubber processing subcategory. As such, since rubber processing operations emissions are, or are capable of being, routed to stacks, these operations do not satisfy the requirement described in CAA section 112(h)(2)(A).

The EPA disagrees with the commenter that the test results at Continental mixers 12 and 22 in 2019 support the need for a work practice standard. The test results cited by commenters were obtained over relatively short test runs of only 3 hours per test condition. The EPA acknowledges that individual mixers will exhibit variable emissions, depending on the material being mixed and the pass of the material through the mixer, and this was also shown in the phase II emissions testing conducted to support this rulemaking. However, the EPA has specifically addressed the issue of emissions variability by establishing the standards based on a 15-day average THC emission rate, rather than on short-term testing.

The EPA also disagrees with the commenter's assertion that rubber processing is comparable to periodic [batch] brick kilns. Unlike the process of rubber tire production, brick kilns are truly batch processes that may take from between several days to nearly a week (or more) to complete, whereas rubber processing is a continuous batch process where each batch takes only a few minutes, then another batch is mixed allowing for more steady emissions. Therefore, the type of scenario described by commentors (whereby they claim that the process with the highest emissions could result in exceeding the limit seven-fold) is not expected to occur during normal business operations. In addition, the HAP of concern (and their potential surrogates) for periodic brick kilns cannot be easily measured on a continuous basis, whereas THC can be monitored continuously with a CEMS. Therefore, the situations are not comparable.

Comment: One commenter disagreed with the EPA's decision to regulate organic HAP through the use of THC as a surrogate instead of developing a design, equipment, work practice, or operational standard under CAA section 112(h) because measurement of organic HAP emissions from mixing is infeasible. The commenter argued that the EPA ignored process information and emissions testing, provided by USTMA members, that showed THC is not an appropriate surrogate because it is affected primarily by emissions of pollutants that are not classified as HAPs. The commenter stated that organic HAP testing required by the EPA through the ICR, as well as additional testing conducted at numerous USTMA member mixers, demonstrated that organic HAP emissions are not correlated with THC emissions and that HAP emissions are affected by different factors. The commenter argued that, unlike the instances in which the EPA's use of surrogate emission limitations has been upheld by the court, in the Rubber Processing affected source subcategory, even the "MACT floor" best performer mixers sometimes do not have emission control technologies in place that reduce either organic HAPs or THC, nor is there some aspect of the mixing process that can be controlled that affects THC and organic HAPs similarly, such as how controlling incomplete combustion in a boiler affects both carbon monoxide and organic HAP emissions.

Response: The EPA disagrees with the commenter's statement that THC is not a viable surrogate for organic HAP. We have long recognized that regulation by surrogate is appropriate, so long as controlling emissions of the surrogate achieves the Act's requirement to limit emissions of corresponding HAPs. See *Sierra Club* v *EPA*, 863 F.3d at 838 (D.C. Cir. 2017); *U.S. Sugar* v *EPA*, 830 F.3d at 628 (D.C. Cir. 2016).

EPA acknowledges the commenter provided additional data relevant to a relationship between THC and volatile organic HAP. However, data provided by the commenter only shows limited data, whereas historical testing (*e.g.,* HAP data collected by a predecessor rubber tire manufacturing trade organization to support the development of AP–42 emission factors) shows over 40 organic HAP emitted from a bench scale mixing operation.

Additionally, upon further review the data submitted relevant to the relationship between THC and volatile organic HAP was done in short 3 run tests, unlike the 30 days of continuous THC data collected as part of ICR. As the commenter has stated throughout their comment document, emissions are variable, thus a simple 3 run test for THC is not likely to take variability into account, unlike the 30-day continuous THC data used to set the MACT floor. Additionally, the ICR required concurrent testing for both semi-volatile organic compounds and THC; however, the data supplied by the commenter were not collected concurrently, greatly reducing, if not eliminating, their suitability for showing a correlation between the datasets due to differing operation conditions during data collection. Finally, the data collected by the commenter were not certified according to the requirements of the ICR. For these reasons, the EPA is unable to assess the usefulness or suitability of the data collected and submitted by the commenter regarding the relationship between THC and organic HAP.

The commenter is expecting a single shared correlation to exist across all sources; however, the EPA believes each source will have its own individual relationship between organic HAP and THC. The figure below provides an example, showing the relationship between the concurrently-collected organic HAP and THC data obtained from the best-performing THC source (Continental Mt. Vernon Mixer 22). These data were collected, certified, and submitted by that source.[12] Note that THC increases as organic HAP increases and that the relationship has an R-squared value of 0.959, which indicates a very high correlation between the THC and organic HAP measurements.[13] Although the EPA only has concurrent organic HAP and THC data from the best performing source, we expect, based on the data before us, that the better performing sources would exhibit similarly high correlations.

[12] See test reports for Continental Mixer 22, Goodyear Lawson Mixer 1, Goodyear Fayetteville Mixer 8, Goodyear Danville Mixer 7, Michelin Mixer 81, and Cooper Mixer 9. Note that Goodyear Fayetteville Mixer 8 and Goodyear Lawson Mixer 1 data are separated according to Belt, Tread, and Mixer categories.

[13] R-squared values shows the relationship between two variable (THC and organic HAP). Generally, R-squared values range from 0 to 1. A value of 0 implies that there is no relationship, while a value of 1indicates a direct relationship.

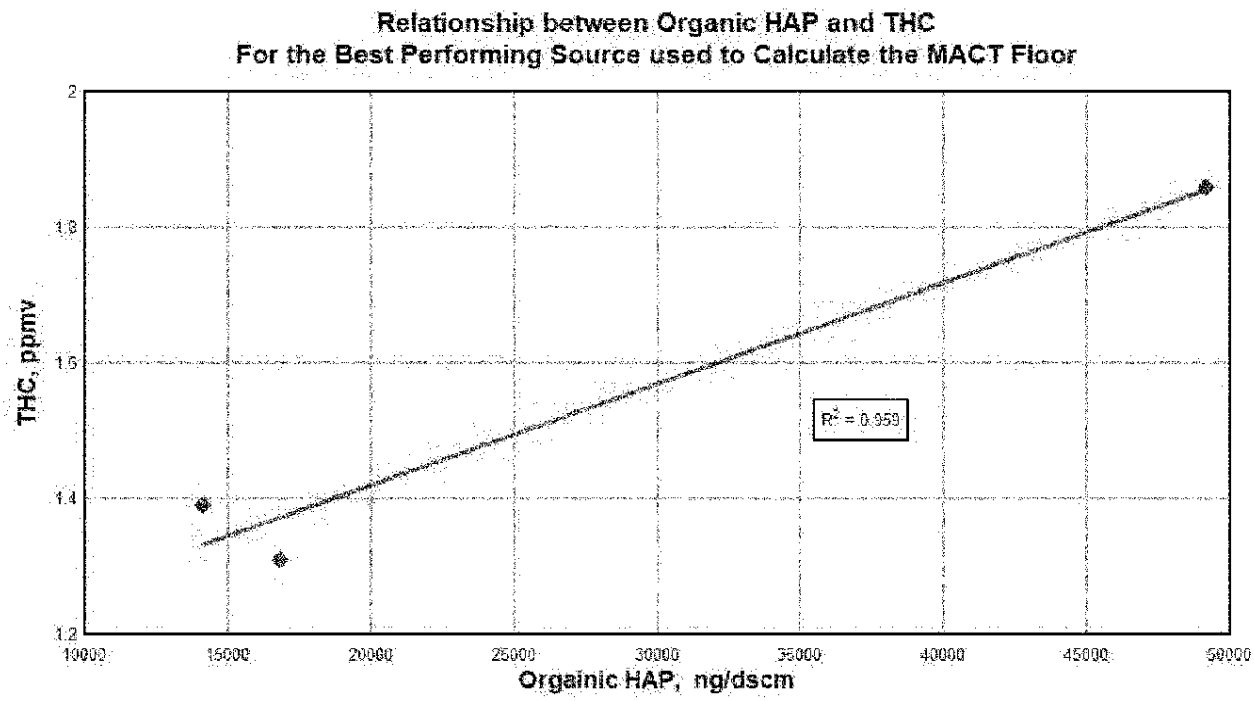

Figure 1. Relationship between Organic HAP and THC for the best performing source. [14]

In this case THC encompasses all relevant organic HAP emitted. Additionally, by using a control device such as an RTO, which is currently operated in the source category and which meets minimum temperature, loading, and retention times, one can reasonably conclude that the associated organic HAP is also being controlled. VOC destruction (which includes organic HAP) efficiencies range from 95 to 99 percent, according to EPA's Air Pollution Control Technology Fact Sheet.[15] Although combustion is a complex process that can produce some HAP, it is well documented that the use of an RTO is an effective way to reduce organic HAP.[16] While the use of RTOs does have secondary impacts,[17] the EPA expects few HAP emissions created as a result of combustion in an RTO: the EPA's experience for any such created HAP is that they are below current detection levels.

As a result, the EPA believes THC is both a reasonable and viable surrogate to represent organic HAP emitted from rubber processing.

Comment: One commenter argued that the EPA cannot subcategorize an industry category based on factors that are unrelated to HAP emissions, including whether silica is an ingredient in the rubber compound being mixed, whether the mixer has high emissions of a non-HAP (THC), or whether the mixer already has a particular type of control technology. The commenter stated that USTMA's supplemental testing shows that high emissions of THC are not correlated with high emissions of organic HAPs, and thus the EPA should not subcategorize mixers or set different limitations for mixers where silica is used in the compound being mixed based on the perception that this leads to higher THC emissions. The commenter added that even if subcategorizing were appropriate because of higher THC emissions associated with the silanization reaction when mixing high-silica tread compounds and silane coupling agents under certain operating conditions, the limits should apply only when silane coupling agents are being introduced under such operating conditions. The commenter argued subcategories should not be based solely on the presence of silica as an ingredient, because the presence of silica as an ingredient on its own (without silane coupling agents) is not expected to contribute to higher THC or organic HAP emissions, and this was confirmed by the emissions data the EPA collected through the ICR testing and supplemental emission testing at USTMA member facilities.

The commenter argued that the EPA's derivation of MACT floor emission limitations for THC fails to meet the statutory directive because the EPA ignored ''emissions information'' that CAA section 112(d)(3) requires it to consider, which shows that less than 12 percent of existing mixers achieve an emission limitation reflective of RTO controls, because only 4 percent of mixers are routed continuously to an RTO. The commenter asserted that while additional mixers are controlled intermittently with an RTO, RTO control does not represent an ''emission limitation achieved'' by those additional mixers, since an emission limitation, by statutory definition and as interpreted by the Court and by the EPA, is only a level of control that is achieved on a continuous basis.

Response: The EPA acknowledges the commenter's statement that an increase in THC emissions is attributed to the addition of both silica and the silane coupling agent (forms bonds between organic and inorganic materials). Upon further evaluation, the EPA agrees there are factors other than just the addition of silica, such as the inclusion of a silane coupling agent, variations in raw materials used, and type of rubber being processed, that create different emission profiles. In response, the EPA decided to set a single standard for THC emissions from mixers for the final rule.

[14] *THC* vs *Organic HAP* tables are available in the docket for this rulemaking.

[15] See EPA's Regenerative Thermal Oxidizer Fact Sheet EPA–452/F–03–021, available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1008OH5.PDF.*

[16] See EPA's Thermal Oxidizer Fact Sheet EPA–452/F–03–022, availabe at *https://www.epa.gov/sites/production/files/2020/11/documents/thermal.pdf.*

[17] See the memorandum Final Rule—Rubber Processing Control Costs, Emission Reductions, and Cost Effectiveness available in the docket for this rule (Docket ID No. EPA–HQ–OAR–2019–0392).

The EPA disagrees with the commenter's statement that the EPA selected separate standards based on what processes were currently controlled. As stated in the proposal, the EPA determined it was appropriate to set separate standards for silica-containing batches and non-silica-containing batches due to expected different emission profiles between the 2 processes that use different raw materials, because the addition of silica leads to chemical reactions producing additional organics. The expected increase in organics for silica-containing batches is represented by higher levels of THC emissions compared to non-silica batches.

Furthermore, the standard based on the application of RTOs as a control technology satisfies the CAA's requirement that an emission limitation or standard apply continuously. Commenters misstate the statutory requirements, suggesting that a control technology must be used continuously for an emission standard to be valid. This is incorrect; commenter's position conflates the requirement that a standard apply continuously with the notion that a control technology, or tool used to achieve that standard, apply, or be operated continuously. In this MACT Final Rule, the EPA determined that one standard will apply to all units. The requirement to meet this standard is ''continuous,'' in that regulated parties must demonstrate compliance with the emission rate standards at all times (*i.e.,* there are no exceptions for periods of startup, shutdown, or malfunction). However, a regulated party need not operate an RTO, if the regulated party can demonstrate compliance with the emission rate standard. This is consistent with other emission standards, in that a regulated party is generally not required to conform to any specific control technology, provided they demonstrate compliance with the emission standard at all times.

The EPA disagrees that our MACT floor emissions limitation for THC failed to meet the statutory directive. The CAA provides specific guidance for setting MACT standards for source categories which include setting the average emission limitation achieved by the best-performing 12 percent of the existing sources (for which the Administrator has emissions information). For this source category, the EPA only received emissions data from 17 mixers, and data from only 12 mixers represented actual THC emissions after the application of any controls (THC data from five mixers were collected before an RTO and EPA was unable to accurately estimate values for their emissions after being controlled by an RTO); therefore, the EPA set the MACT standard for THC using the actual THC emissions data from the 12 mixers that were made available to the Administrator as the CAA requires.

Comment: One commenter stated that tire plants typically have a number of mixers, which may be used for different purposes on different days or even different portions of a day, and tire plants must have the flexibility with the mixers to produce the rubber needed for various processes within the Tire Production affected source, in the quantities involved and on the time schedule involved.

The commenter argued that the proposed rule treats the mixers as if each one operated entirely independently of other mixers at the plant and would not recognize the interplay among mixer exhaust points, requiring each mixer exhaust to demonstrate compliance with an identical emission limitation.

The commenter recommended that instead, numerical emission limitations for THC should be expressed as the overall average of pounds of THC emissions per ton of rubber processed for all mixers at the plant. The commenter suggested this would recognize that mixers are used in an interrelated way, and it would allow tire plants to more cost-effectively optimize controls to prevent excessive emissions across the entire facility. The commenter noted that the EPA has taken this approach for numerous other source categories and averaged emissions would still reflect MACT.

The commenter added that expressing a THC numerical emission limitation as an overall average for all mixers at a plant would allow plants to optimize their investments by installing controls on units where lower emissions can be most cost effective, facilitate pollution prevention innovations, and facilitate tire plants developing measures that reduce organic HAP emissions by taking advantage of the interconnectedness of mixers in ways that might, for example, affect emissions only from particular compounds or particular passes. Finally, the commenter noted that emissions averaging may also allow for control options that benefit the environment by minimizing energy use.

Response: The EPA agrees with the commenter that a facility wide-average emission limit for mixers is an appropriate approach to account for variability in emissions among mixers and to provide flexibility in demonstrating compliance. In response to the comment, the EPA has added an alternative compliance option for THC that allows facilities to average their emissions at all mixers at an individual facility to meet the emission limit. (The EPA has allowed a similar option for demonstrating compliance with the limits for fPM described below in section IV.B. of this preamble.)

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

For the reasons explained in the preamble to the proposed rule (88 FR 78692, November 16, 2023), and in the comment responses above in section IV.A.3. of this preamble, we are finalizing the emission limits for THC as a surrogate for organic HAP from rubber processing as proposed, but with several changes since proposal. First, we are establishing a single emission limit for THC without separate emission limits for subcategories for mixing silica-containing and non-silica-containing compounds to reflect the fact that variables other than silica affect emissions, such as the inclusion of a silane coupling agent, variations in raw materials used, and type of rubber being processed. Therefore, the EPA determined it was not appropriate to separate emission limits by silica and non-silica. Additionally, by setting a single emission limit instead of two separate emission limits, the compliance demonstration for facilities that mix multiple compounds in the same mixer at different times will be significantly simplified. Second, upon additional review of the data and new knowledge of emission range that contributes to the calculation of 3xRDL, we are revising the THC emission limit for new and existing rubber processing affected sources so that it is equal to the 3xRDL value for THC emission measurements calculated from the available testing data. The same 3xRDL value will apply to both new and existing rubber processing affected sources, and the 3xRDL value in the final rule is higher than the proposed THC emission limits for new and existing sources for both silica-containing and non-silica-containing batches. Third, in response to comments, we are allowing owners and operators to demonstrate compliance with the THC emission limit by using facility-wide averaging among mixers within a single facility. For each 15-day compliance period, the owner or operator would demonstrate compliance using averaging by summing the mass of emissions from the mixers included in the average over that period and dividing that sum by the sum of the rubber produced from the same mixers over the same period. This change results in reducing reporting burden and

accounts for additional variability across the source category.

B. Emission Standards for Unregulated Metal HAP Emissions From the Rubber Processing Subcategory

1. What did we propose pursuant to CAA section 112(d)(2) and (3) for the Rubber Tire Manufacturing source category?

Based on responses to the CAA section 114 information request, the EPA had fPM data from 7 mixers and of those metal HAP data from 5 of the mixers. The EPA had no reason to assume a difference in fPM and metal HAP emissions based on the mixing of silica-containing or non-silica-containing compounds, as silica was expected to cause an increase in organic emissions, which does not impact PM. Thus, a single emission standard was proposed for mixing of all rubber compounds. For each mixer, the EPA calculated the 99 percent UPL for both fPM and the sum of the metal HAP that were measured (antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, phosphorus, and selenium). The CAA requires the EPA to determine the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has information) when establishing the MACT floor level of control. There are an estimated 97 mixers in the source category, and the MACT floor is calculated using data from the top performing 12 percent of mixers for which we have data. At proposal, the EPA had fPM data from 7 mixers and of those metal HAP data for 5 of the mixers. The EPA calculated 12 percent of 7 mixers (fPM) and 12 percent of 5 mixers (metal HAP) which results in 0.84 and 0.6, respectively. When determining the best performing 12 percent of existing sources for the MACT floor pool, we rounded the fractional amounts to the next whole number of mixers. In this instance, we rounded up to one mixer for purposes of determining the existing source MACT floors for both the fPM and metal HAP emission limits.

When setting new source MACT floors, the emission limit is achieved in practice by the best controlled similar source. As a result, the MACT floors for both new and existing sources are based on the best performing existing source. Based on responses to the CAA section 114 information request, all mixers in this subcategory are controlled by a baghouse or similar control devices which control PM emissions.

To account for variability in the rubber processing operations and resulting emissions, the stack test data were used to calculate the PM MACT floor limits based on the 99 percent UPL.

We calculated the MACT floor UPL emission rate for fPM as 1.7 g/Mg (3,410 pounds per million tons (lb/Mton)) rubber produced, and a total metal HAP UPL emission rate of 0.037 g/Mg (74.1 lb/Mton) rubber produced. The lowest fPM emission rate and the lowest metal HAP emission rate were measured at the same mixer, and the fPM and metal HAP emissions were measured simultaneously. Because metal HAP are emitted as fPM, the EPA proposed an emission limit for fPM as a surrogate for metal HAP, and also an alternative emission limit for total metal HAP itself. The baghouses that are used to capture fPM will also reliably capture metal HAP, and the fPM emission limit accounts for variability in individual metal HAP emission rates among different batches of rubber compound being mixed.

Because the proposed standards for new and existing sources are based on the best performing mixer, which is already controlled by a baghouse, and no more effective controls than a baghouse for PM or metal HAP are in use or were identified, we did not identify any beyond-the-floor options to evaluate for either existing or new mixers.

2. How did the analysis pursuant to CAA section 112(d)(2) and (3) change for the Rubber Tire Manufacturing source category?

Since proposal, the EPA has received additional fPM data for 3 mixers (bringing the total to 10) and has recalculated the MACT floor to include the additional data and has also recalculated the 3xRDL values for fPM and metal HAP. (The EPA also received fPM data for a fourth additional mixer in the public comments, but those data did not include the production data needed to calculate emissions per mass of rubber processed, so the fourth mixer could not be included in the final rule MACT analysis.) The final rule limits for fPM and metal HAP have been increased since proposal. The existing source MACT floor UPL has been recalculated using the combined data from the 2 lowest emitting mixers because they represent 12 percent of the 10 mixers for which the Administrator now has fPM data. The EPA has also recalculated the 3xRDL value to reflect the higher number of sources for which the Administrator has data.

The final rule limits for fPM and metal HAP also include the option of facility-wide averaging among mixers to demonstrate compliance.

3. What key comments did we receive on the analysis pursuant to CAA section 112(d)(2) and (3), and what are our responses?

Comment: One commenter argued that the EPA should find that HAP metals emissions from mixers are already controlled and are incidental to the very efficient dust control measures that are an integral part of mixing operations for materials recovery purposes and safety reasons, and therefore there is no ''gap'' that is ''necessary'' for the EPA to fill under CAA section 112(d)(6), as the EPA effectively already recognized in the 2020 RTR rulemaking. The commenter asserted it is inappropriate to impose additional costs for essentially no benefit, since metals emissions from mixing are already low, often below detection limits, and the EPA has already determined the residual risk from metals emissions from all processes at tire plants is acceptable. However, the commenter agreed that if the EPA nevertheless imposes new limits on HAP metal emissions from mixing, then total fPM is an appropriate surrogate, and establishing alternative emission limitations for HAP metals as the EPA proposed is permissible under the CAA.

The commenter also argued that the EPA should base the MACT floor for fPM on more than just a single mixer and supplied additional particulate test data from which the EPA could calculate a fPM emission limitation substantially higher than what the EPA proposed.

Response: The EPA disagrees that there is no ''gap'' in the standards for metal HAPs. While mixers operate baghouses to control nuisance PM, the current MACT standard does not specifically regulate emissions of metal HAP or the fPM surrogate from mixers. Metal HAPs emitted during rubber processing include, antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, phosphorus, and selenium.

The court in *National Lime Association* v. *EPA,* 233 F.3d 625, 633–34 (D.C. Cir. 2000), found that section 112(d)(1) requires the EPA to set emissions standards for all listed HAP emitted from each listed major source category (or subcategory). The court in *Sierra Club* v. *EPA,* 479 F.3d 875, 878 (D.C. Cir. 2007) confirmed the prior holding in *National Lime Association* that section 112(d)(1) requires the EPA

to set emissions standards for all listed HAP emitted from each listed major source category (or subcategory). Additionally, the *LEAN* decision requires that when the EPA undertakes a 112(d)(6) technology review, it must set a MACT standard for previously unregulated pollutants, even if there is a prior risk assessment that identifies the risk from those pollutants as ''low.'' [18] This requirement, that the EPA address all enumerated air toxic pollutants, is applicable to the EPA regardless of any findings that the EPA has made regarding the risk posed by the expected emission levels from those currently unregulated pollutants, or other cited considerations from commenters.

The CAA does not authorize the EPA to decline to set the emission limits required by 112(d)(1) because a risk assessment under 112(f)(2) finds that the existing standards provide an ample margin of safety. It is clear that Congress intended the EPA to set technology-based standards that address all emitted HAP, and the EPA does not agree that the absence of such limits in an existing NESHAP justifies a decision at this point not to address all emitted HAP from a major source.

Additionally, the CAA provides specific guidance for setting MACT standards for source categories, which includes setting the average emission limitation achieved by the best-performing 12 percent of the existing sources (for which the Administrator has emissions information). For this source category the EPA received fPM emissions data from 7 mixers before proposal and from 3 more mixers since proposal that could be used to calculate UPL values for each mixer. Therefore, for the proposed rule, the EPA set the MACT standard using the top 12 percent of the 7 mixers data (*i.e.,* the best performing mixer) that was made available to the administrator at proposal, as the act requires. However, after proposal the EPA received additional fPM data representing 4 more mixers, including 3 mixers with enough data to calculate a UPL value. (The data for one mixer included only 2 runs.) For the final rule, the EPA has recalculated the MACT floor for existing sources using the data from the 2 best performing mixers, but the MACT floor for new sources is still equal to the best performing source. The MACT floor fPM UPL emission limit for existing sources from the combined data for the 2 lowest emitters is 2.4 g/Mg (4.9×10^3 lb/Mton). However, the recalculated 3xRDL from the same 2 mixers is equal to 3.0 g/Mg (6.0×10^3 lb/Mton).

The EPA acknowledges the commenter agrees with the EPA that fPM is an appropriate surrogate for HAP metals, noting that fPM contains HAP metals and that fPM control devices such as baghouses also collect HAP metals, just as THC emissions contain organic HAP and that THC control devices such as thermal oxidizers also control organic HAP emissions.

This rule correctly applies statutory requirements, consistent with past Agency practice, to select the best performing source and to calculate appropriate emission limits. In keeping with regulatory requirements and past Agency practice, this rule applies techniques to ensure source owners or operators can determine compliance with the rule on a continuous basis. While use of PM CEMS could provide this information, the rule allows the use of bag leak detection system (BLDS) parameter measurement to supply data upon which compliance can be determined. The commenter's assertion that mixer emissions are too variable and should escape regulation appears to disregard the use of a 15-day averaging period, which, as described earlier, smooths out production and emissions spikes and dips. Contrary to the commenter's view, BLDS parameters provide a better description of ongoing baghouse operation than the typical baghouse continuous parameters of pressure drop and flow rate, which typically only show catastrophic failure.

Comment: One commenter argued that the EPA must base the fPM emission limitations on stack tests conducted while mixing nonproductive rubber. The commenter stated that the EPA has long recognized that the majority of emissions from rubber mixing occur during nonproductive passes, such as in the documentation supporting the AP–42 emission factors for rubber tire manufacturing. The commenter noted that most of the raw materials are added during the nonproductive passes, so one would expect that fPM emissions during nonproductive passes are greater than during mixing of productive rubber. The commenter noted that the available fPM emissions data from both the ICR testing and the additional fPM stack testing data submitted by the commenter show that fPM emissions were higher when mixing non-productive passes: over twice as high on a concentration basis and over 5 times higher on a mass of fPM per mass of rubber processed basis.[19]

The commenter asserted that MACT floor emissions must represent an emissions rate that the best performers can achieve under the worst-case conditions,[20] and an fPM emission limitation based on what the best performers achieve during productive passes would not reflect what those mixers can achieve during non-productive passes. The commenter stated that a majority of mixers at major-source tire plants either are presently used or could be used for non-productive passes, and non-productive mixing is essential for processing rubber for rubber tire components. The commenter added that the EPA would have to conduct additional fPM emissions testing and data collection and re-propose if the EPA wanted to create 2 subcategories of mixers for productive and non-productive rubber fPM emission limitations. Thus, according to the commenter, the EPA must establish fPM surrogate emissions limitations based only on testing that occurred while mixing non-productive rubber.

Response: The EPA disagrees that the final rule limit cannot be achieved by sources during the mixing of non-productive rubber passes. The emission standard was developed based on data submitted to EPA by regulated parties, and the emission standard is therefore ''achieved in practice'' by the best controlled similar source. *See* CAA section 112(d)(3). In the data provided by USTMA in Attachment 6 to their comments, Goodyear Mt. Vernon Mixer #14 achieved an average emission rate of 2.3 g/Mg while mixing non-productive rubber on all 3 passes. As explained above in the response to comments in this same section, the EPA has revised the fPM limit in the final rule to 3.0 g/Mg and added facility wide averaging allowing for increased flexibility to account for variability in emissions. Therefore, the final rule emission limits are achievable during the mixing of non-productive rubber on

[18] *See LEAN,* 955 F.3d 1088 at 109 (''We hold that . . . EPA's section 112(d)(6) review of a source category's emission standard must address all listed air toxics the source category emits.''

[19] The commenter cited the data presented on pages 4–6 of Attachment 4 of docket item EPA&HQ–OAR–19–0132.

[20] The commenter cited, *e.g., National Ass'n of Clean Water Agencies* v . *EPA,* F.3d 1115, 1132 (D.C. Cir. 2013) (''[A]s we explained in *Sierra Club,* it is reasonable to expect that the incinerator on which the MACT floors are based should be able to 'in practice,' which it could not do unless 'achieved in practice' meant 'achieved under the worst forseeable circumstancfes,' '') (internal citations omitted); *Mossville Environmental Action Now* v. *EPA,* 370 F.3d 1232 1242 (D.C. Cir. 2004) (''[E]ven the best performing sources occasionally have spikes, and under the standard, each facility must meet the 400 ppm standard every day and under all operating conditions.''

all passes.. For a detailed discussion of the EPA stance on worst-case performance, see section IV.c. of the Response to Comments document found in the docket for this rule.

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

For the reasons explained in the preamble to the proposed rule (88 FR 78692, November 16, 2023), and in the comment responses above in section IV.B.3. of this preamble, we are promulgating emission limits for fPM from rubber processing with several changes since proposal. First, we are revising the emission limit for both fPM and metal HAP. For fPM, we are basing the existing source MACT floor on the average performance of the 2 lowest emitting sources instead of the single lowest emitting source because we have more fPM data than at proposal. We have fPM data for 10 mixers and 12 percent of 10 is 1.2, which is rounded up to 2 mixers. The UPL calculated for the combined data for the 2 lowest emitting mixers is 2.4 g/Mg (4.9×10^3 lb/Mton) rubber produced.

We have also recalculated the 3xRDL value to reflect the higher number of mixers for which the Administrator has data. The 3xRDL value recalculated for the final rule is 3.0 g/Mg (6.0×10^3 lb/Mton) rubber produced. Because this value is higher than the revised UPL value(s) for new and existing sources, the final rule is based on the 3xRDL values for fPM.

C. Emission Testing and Compliance Demonstrations

1. What did we propose pursuant to CAA section 112(d)(2) and (3) for the Rubber Tire Manufacturing source category?

The EPA proposed that facilities demonstrate compliance with the THC emission limits by monitoring the emissions from each mixer with a CEMS and also monitoring production and calculating the emission rate in grams THC per megagram rubber produced (g/Mg) on a 15-day rolling average. The EPA proposed that compliance would be demonstrated for each mixer separately.

The EPA also proposed that THC emissions would be measured at the outlet for each RTO on a 5-year interval and during the testing operating limits would be established for each RTO.

The EPA proposed that facilities could choose to comply with either the emission limit for fPM or the alternative emission limit for total metal HAP and, accordingly, measure fPM emissions using EPA Method 5 or the metal HAP emissions using EPA Method 29. The fPM or metal HAP measurements would be required every 5 years. For each baghouse, owners and operators would need to install and operate a bag leak detection system.

2. How did the analysis pursuant to CAA section 112(d)(2) and (3) change for the Rubber Tire Manufacturing source category?

The final rule will allow facilities to average among mixers to demonstrate compliance with both the THC and fPM or metal HAP emission limits. The final rule does not include the requirement to perform a THC compliance test every 5 years and does not require the facility to establish and comply with operating limits for the RTO, but instead requires the use of THC CEMS. The other proposed emission testing and monitoring compliance requirements have been retained in the final rule.

3. What key comments did we receive on the analysis pursuant to CAA section 112(d)(2) and (3), and what are our responses?

Comment: One commenter stated that the rule should not require multiple THC CEMS at each mixer exhaust point instead of allowing for measurement of THC emissions at the actual point at which they exhaust to the atmosphere. The commenter suggested that this approach would reduce the number of THC CEMS required and also eliminate the need for continuous monitoring of RTO combustion temperature and a 5-year repeat performance test using Method 25A. The commenter added that if the EPA requires use of CEMS for compliance, then parameter monitoring, and a 5-year repeat performance test are not needed.

Response: The EPA recognizes that because sources will be operating THC CEMS that will continuously record the THC concentration in the emissions at the stack, there is no need to require operating limits for the RTOs (*e.g.,* operating temperature) if an RTO is being used for compliance and there is similarly no need for a periodic (*e.g.,* every 5 years) performance test of the RTO. Therefore, the operating limits for RTOs and the periodic THC testing requirement have been removed from the final rule.

In addition, as explained above in section IV.A., the final rule will allow for demonstrating compliance with facility-wide emission limits for THC, which will also allow for use of a single THC CEMS at the exhaust point for combined mixer exhausts and reduce the number of THC CEMS needed.

Comment: One commenter disagreed with the proposal to require BLDS as the continuous compliance demonstration method for the proposed PM emission limit for rubber processing because they were not justified by the current fPM and metal HAP from particulate controls on mixers and the EPA has not justified them as a beyond-the-floor technology.

The commenter reported that no BLDS are currently installed at rubber processing facilities, and over 100 BLDS will need to be installed as a result of the proposed requirement, resulting in additional capital costs not only for the monitors and data acquisition and handling system, but also for stack/duct modifications to accommodate a monitor. The commenter noted that the EPA has estimated that the proposed standards will result in a reduction of only 318 lb of metal HAP per year and asserted that installation of a complicated monitoring system that is not currently in use in the industry is not reasonable for the expected HAP reduction. The commenter stated that facilities currently employ pressure drop and/or visible emissions observations along with a program of regular internal and external inspections and maintenance of the duct work and baghouse to ensure compliance with PM limits in their air permits.

The commenter recommended that the EPA should replace the requirement for BLDS with the use of baghouse pressure drop or twice daily visible emissions monitoring to ensure baghouses are operating properly as the continuous compliance determination method.

Response: The EPA disagrees with the commenter's suggestion to rely on continuous parameter monitoring other than that associated with BLDS; those other parameters—including visible emissions, flow rate, or pressure drop—do not provide relevant information quickly enough to correct problems before emission limits may be compromised. For example, the commenter mentions twice daily visible emission checks; such an approach is not continuous and detection with the human eye is only possible at 5 percent opacity and above. As a result, lower opacities may yield fPM values that exceed the emission limits but would occur undetected by visible emission checks. As mentioned earlier, flow rate and pressure drop across baghouses can indicate catastrophic failures, but not provide information to preclude baghouse problems before exceedances occur. Of course, owners or operators could use PM CEMS in lieu of BLDS; PM CEMS would provide direct, continuous measurement of the

pollutant of concern and would enable source owners or operators to forgo any type of fPM control device parameter monitoring. Using the process in the NESHAP general provisions, mentioned earlier, owners or operators could request—and expect to receive—approval from the EPA for use of PM CEMS for rule compliance purposes.

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

For the reasons explained in the preamble to the proposed rule (88 FR 78692, November 16, 2023), and in the comment responses above in section IV.C.3. of this preamble, we are finalizing emission testing and compliance demonstration requirements as proposed, but with several changes since proposal.

First, the EPA has removed the requirement for a periodic THC compliance test and compliance with THC operating limits and monitoring (*e.g.,* RTO operating temperature) because THC emissions will be continuously monitored by a THC CEMS. The final rule will also allow for demonstrating compliance with facility-wide emission limits for THC, which will also allow for use of a single THC CEMS at the exhaust point for combined mixer exhausts and reduce the number of THC CEMS needed.

Second, the EPA believes requiring BLDS will provide significantly more accurate and continuous feedback on the operation of a baghouse and can provide an earlier indication of potential bag leaks compared to the requested visible emission inspections.

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

A. What are the affected facilities?

As listed in CFR 63.5982 (b)(4), the rubber processing affected source is the collection of all rubber mixing processes (*e.g.,* banburys and associated drop mills) that either mix compounds or warm a rubber compound before the compound is processed into components of rubber tires. The mixed rubber compound itself is also included in the rubber processing affected source. Among the 15 major sources that are subject to the NESHAP, 12 facilities perform rubber processing, while 3 facilities do not perform rubber processing and use rubber that is processed at other facilities.

B. What are the air quality impacts?

This action proposes first-time MACT floor-based emission standards for THC (as a surrogate for organic HAP), metal HAP, and fPM from rubber processing. These first-time MACT standards will limit HAP emissions and require, in some cases, the installation of additional controls at rubber tire manufacturing plants that are major sources of HAP. We estimate that the rubber tire manufacturing industry will comply with the final standards for THC, metal HAP, and fPM through the installation and operation of control devices.

For THC, we estimate that the installation of RTOs or similar control devices will achieve annual reductions of THC of 94 Mg (104 tons) across the source category.

For fPM and metal HAP, we estimate that the replacement or upgrade of baghouses will achieve annual reductions of fPM of 61 Mg (67 tons) or 0.073 Mg (160 lb) of total metal HAP (antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, phosphorous, and selenium) across the source category.

Indirect or secondary air emissions impacts are impacts that would result from the increased energy usage associated with the operation of control devices (*e.g.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts are due to use of natural gas needed to operate control devices and other equipment. We conclude that the secondary impacts of this action are minimal, resulting from the operation of the control device, and would comprise CO_2 and methane (CH_4) emissions from the combustion of the natural gas required to operate an RTO. For purposes of assessing the projected disbenefits, we estimate that the monetized disbenefits would be no greater than $8.1 million in any year, with estimates ranging from $2.7 million to $8.1 million per year depending on the discount rate assumption.[21]

For the final rule, we estimate that 8 new RTOs would be needed and each RTO would consume about 29,800 thousand standard feet (mscf) per year of natural gas and 1.33 million kilowatt hours per year of electricity. For all 8 new RTOs, the indirect greenhouse gas emissions of CO_2 and CH_4 from the combustion of the natural gas and the generation of electricity would be equivalent to 19,330 tons (17,536 Mg) of CO_2 emissions.

C. What are the cost impacts?

This action proposes MACT floor-based emission limits for new and existing sources in the Rubber Tire Manufacturing source category, specifically the rubber processing subcategory. Although the action contains requirements for new sources, we are not aware of any new sources being constructed now or planned in the next 3 years and we are not aware of any new additional mixers to existing facilities. Consequently, we did not estimate any cost impacts for new sources. We estimate the total annualized cost of the final rule to existing sources in the Rubber Tire Manufacturing source category to be $13.3 million per year. The costs are a combination of the annualized capital and annual operating costs for installing and operating RTOs or similar control devices to control THC and organic HAP; baghouses and associated BLDSs to control fPM and metal HAP; and THC CEMS to monitor THC emissions. The capital and annual costs are summarized in table 2.

TABLE 2—SUMMARY OF CAPITAL AND ANNUAL COSTS

Cost element	Total capital investments (million)	Annualized equipment and operation and maintenance costs (million)
RTOs (8 new)	$25.0	$4.9

[21] This range of disbenefit estimates is presented in 2022 dollars and was calculating by multiplying the social cost of carbon (SC-CO_2) by 17,536 metric tons of CO2e reductions for each year in the timeframe of 2027 to 2036. We applied near-term Ramsey discount rates of 2.5 percent, 2.0 percent, and 1.5 percent,and found that the largest disbenefit estimate was 2036 when using a 1.5 percent near-term Ramsey discount rate. Additional information on the social cost of carbon and an EPA workbook for applying SC-CO_2 estimates is found here: *https://www.epa.gov/environmental-economics/scghg.*

TABLE 2—SUMMARY OF CAPITAL AND ANNUAL COSTS—Continued

Cost element	Total capital investments (million)	Annualized equipment and operation and maintenance costs (million)
THC CEMS (97 CEMS)	14.0	4.2
Total Annual RTO and CEMS Costs		9.1
New Baghouses (46 mixers)	19.6	2.0
Retrofitted Baghouses (new bags; 34 mixers)		0.5
BLDS and PM Testing (114 BLDS)	2.54	1.7
Total Annual Baghouse, BLDS, and PM Testing Costs		4.2
Totals		13.3

The estimated annual costs are based on operation and maintenance of the added control systems. A memorandum titled *Final Rule Rubber Processing Control Costs, Emission Reductions, And Cost Effectiveness,* includes details of our cost assessment, and is included in the docket for this action (Docket ID EPA–HQ–OAR–2019–0392).

D. What are the economic impacts?

The EPA conducted economic impact analyses for the final rule in the report titled *Economic Impact Analysis for the National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing Amendments, Final,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2019–0392). The economic impacts of the final rule are calculated as the percentage of total annualized costs incurred by affected ultimate parent owners compared to their revenues. This ratio provides a measure of the direct economic impact to ultimate parent owners of facilities while presuming no impact on consumers. We estimate that none of the ultimate parent owners affected by this final rule will incur total annualized costs of 1 percent or greater of their revenues. Thus, these economic impacts are low for affected companies and the industry impacted by the final rule, and there will not be substantial impacts on the markets for affected products. We lack the information necessary to independently assess the downtime loss of production due to capital improvements or deferred maintenance that would be associated with these controls for each affected facility. The costs of the final rule are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

The benefits of this rule include any benefits relating to the reduction of emissions of organic HAP and fPM. The rule is projected to reduce emissions of THC, as a surrogate for organic HAP, and fPM, as a surrogate for metal HAP, through the installation and operation of control devices. The reduction in fPM can also result in associated reduction in PM-related mortality and morbidity.

The EPA is currently unable to monetize most benefits associated with HAP reductions. The potential benefits from reducing THC were not monetized and are therefore not reflected in the benefit estimates associated with this rulemaking. However, we estimate that the final rule amendments would reduce THC emissions by 104 tons/yr and metal HAP emissions by 160 lb/yr and thus lower risk of serious adverse health effects from exposure to certain HAPs in communities near rubber tire manufacturing plants. It is reasonable to expect that emissions reductions from this rule will improve air quality and public health for populations exposed to emissions from rubber tire manufacturing facilities. Due to methodology and data limitations, we could not monetize the health benefits of HAP reductions for this final rulemaking.

Although we are unable to quantify the benefits of reducing HAPs from this rulemaking, we are providing a qualitative assessment of the benefits of reducing both organic and metal HAPs. This is detailed in section 4 of *Economic Impact Analysis for the National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing Amendments, Final,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2019–0392). These HAPs include, but are not limited to, the following: organic HAPs such as 2-butanone, acetophenone, cumene, hexane, isooctane, methylene chloride, phenol, toluene, and xylene, and metal HAPs such as antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, phosphorus, and selenium.

The control measures are expected to reduce fPM by 66.7 tons/yr for the source category. Any monetization of PM-related health benefits would require the EPA to assume the percentage of fPM that is $PM_{2.5}$. As the percentage of the fPM reductions that is $PM_{2.5}$ is unknown, it is too uncertain to estimate the PM-related benefit impacts of this rule. For purposes of assessing the economic significance of these benefits, we can determine that if all of the fPM were $PM_{2.5}$, the annual benefits would be estimated to be no greater than $24 million, occurring in 2028.[22] Therefore, this action is not economically significant based on benefit impacts. This rule is expected to limit emissions of directly emitted $PM_{2.5}$, which may will in turn reduce ambient concentrations of $PM_{2.5}$ and in turn benefit public health. Though EPA neither quantified nor monetized these benefits, we anticipate reducing $PM_{2.5}$ concentrations will reduce the incidence or premature death, non-fatal heart attacks, cases of aggravated asthma, lost days of work and school and other adverse effects (U.S. EPA, 2022).[23] This rule is also expected to

[22] This estimate is based on the use of a "benefit-per-ton" (BPT) approach to estimate the benefits of this rulemaking assuming that all $fPM_{2.5}$ These BPT estimates provide the estimated monetized human health benefits (the sum of premature mortality and premature mobidity) of reducing one tone of the PM2.5 from a specified source. Specifically, in this analysis, we multiplied the estimates from the "Synthetic Organic Chemicals" sector by the corresponding emission reductions. The method used to derive these estimates is described in the BPT Technical Support Document on Estimating the Benefit per Ton of Reducing Directly Emitted PM2.5

[23] U.S. EPA, 2022. Estimating $PM_{2.5}$- and Ozone-Attributable Health Benefits. Office of Air and Radiation, Research Triangle Park, NC.

reduce emissions of Hg. Methylmercury (MeHg), which is formed by microbial action in the top layers of sediment and soils, after mercury has precipitated from the air and deposited into waterbodies or land, can cause a number of adverse effects when impacting fishes associated with recreational or commercial consumption and present at sufficiently elevated levels. Though not quantified here, these effects include IQ loss measured by performance on neurobehavioral tests, particularly on tests of attention, fine motor-function, language, and visual spatial ability.

F. What analysis of environmental justice did we conduct?

For purposes of analyzing regulatory impacts, the EPA relies upon its June 2016 *''Technical Guidance for Assessing Environmental Justice in Regulatory Analysis,''* which provides recommendations that encourage analysts to conduct the highest quality analysis feasible, recognizing that data limitations, time, resource constraints, and analytical challenges will vary by media and circumstance. The Technical Guidance states that a regulatory action may involve potential environmental justice concerns if it could: (1) create new disproportionate impacts on communities with EJ concerns; (2) exacerbate existing disproportionate impacts on communities with EJ concerns; or (3) present opportunities to address existing disproportionate impacts on communities with EJ concerns through this action under development.

The EPA's EJ technical guidance states that ''[t]he analysis of potential EJ concerns for regulatory actions should address three questions: (A) Are there potential EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern in the baseline? (B) Are there potential EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern for the regulatory option(s) under consideration? (C) For the regulatory option(s) under consideration, are potential EJ concerns created or mitigated compared to the baseline?'' [24]

The environmental justice analysis is presented for the purpose of providing the public with as full as possible an understanding of the potential impacts of this final action. The EPA notes that analysis of such impacts is distinct from the determinations finalized in this action under CAA section 112, which are based solely on the statutory factors the EPA is required to consider under this section.

We did not conduct any new demographic analyses for this final rule. There were no known changes to the population of Rubber Tire Manufacturing facilities nor any known changes to our estimates of HAP emissions from Rubber Tire Manufacturing facilities since proposal. Therefore, the EPA relied on the demographic analysis performed for the 2020 proposal for this final rulemaking.

In the 2020 proposal, we conducted a baseline proximity analysis and baseline risk-based analysis (*i.e.,* before implementation of any controls promulgated by this action). The baseline proximity demographic analysis is an assessment of individual demographic groups in the total population living within 5 kilometers (km) (approximately 3.1 miles) and 50 km (approximately 31 miles) of the facilities. The baseline risk-based demographic analysis is an assessment of risks to individual demographic groups in the population living within 5 km and 50 km of the facilities prior to the implementation of any controls promulgated by this action. The results of the proximity demographic analysis and the risk-based demographic analysis for populations living within 5 km and 50 km are included in the document titled *Analysis of Demographic Factors for Populations Living Near Rubber Tire Manufacturing Source Category Operations,* which is available in the docket for this action (see Docket ID No. EPA–HQ–OAR–2019–0392–0069).

The results of the proximity analysis conducted for the 2020 proposal indicated that a total of approximately 516,000 people live within 5 km of the 21 Rubber Tire Manufacturing facilities. The percent of the population that is Black (24 percent, 124.000 people) is double the national average (12 percent). The percent of people living below the poverty level (21 percent, 108,000 people) and the percent of people over the age of 25 without a high school diploma (16 percent, 83,000 people) are higher than the national averages (14 percent and 14 percent, respectively). The results of the baseline proximity analysis indicate that the proportion of other demographic groups living within 5 km of Rubber Tire Manufacturing facilities is similar to or below the national average.

The baseline risk-based demographic analysis conducted for the 2020 proposal, indicated that emissions from the source category, prior to the controls we are proposing, expose approximately 4,500 people living near 21 facilities to a cancer risk at or above 1-in-1 million (maximum individual risk is 4-in-1 million) and expose no people to a chronic noncancer target organ-specific hazard index (TOSHI) greater than 1 (maximum noncancer HI is 0.2). The percent of the baseline population with estimated cancer risks great than or equal to 1-in-1 million that are Black (25 percent, 1,000 people) is more than 2 times the average percentage of the national population (12 percent). The percent of the population with cancer risks greater than or equal to 1-in-1 million resulting from Rubber Tire Manufacturing source category emissions prior to the proposed controls that is Below the Poverty Level (21 percent, 1,000 people) is above the national average (14 percent).

As indicated in section V.B. of this preamble, this final action is projected to reduce HAP emissions from Rubber Tire Manufacturing facilities by setting first time emission limits on the mixing operation. As a result, we expect risk for all exposed individuals and communities will also be reduced. See section V.B. of this preamble for more details.

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

In the July 24, 2020, final Rubber Tire Manufacturing RTR rule (85 FR 44752), the EPA conducted a residual risk assessment and determined that risk from the Rubber Tire Manufacturing source category was acceptable, and the standards provided an ample margin of safety to protect public health (see Docket Item No. EPA–HQ–OAR–2019–0392–0013). There are no known changes that would increase risk, thus the EPA relied on the 2020 demographic analysis for this rulemaking. In addition, this action promulgates first-time emissions standards for THC and fPM and metal HAP, including mercury and lead which are known to cause particular impacts to children's health and/or from early life exposure, for the rubber processing subcategory, which will further reduce emissions. Specifically, we estimate that the new emission limits will reduce THC and fPM emissions by 94 Mg/yr and 61 Mg/yr, respectively.

This action's health and risk assessments are protective of the most vulnerable populations, including children, due to how we determine exposure and through the health

[24] ''Technical Guidance for Assessing Environmental Justice in Regulatory Analysis'', U.S. EPA, June 2016. Quote is from Section 3–Key Analytic Considerations, page 11. *https://www.epa.gov/environmentaljustice/technical/guidance/assessing-environmental/justice/regulatory/analysis.*

benchmarks that we use. Specifically, the risk assessments we perform assume a lifetime of exposure, in which populations are conservatively presumed to be exposed to airborne concentrations at their residence continuously, 24 hours per day for a 70-year lifetime, including childhood. With regards to children's potentially greater susceptibility to noncancer toxicants, the assessments rely on the EPA's (or comparable) hazard identification and dose-response values that have been developed to be protective for all subgroups of the general population, including children. For further details on the health and risk assessments can be found in the document ''Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Rubber Tire Manufacturing Source Category Operations,'' available in the docket for this action (Docket ID No. EPA–HQ–OAR–2019–0392).

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and Executive Order 14094: Modernizing Regulatory Review

This action is a '' significant regulatory action'' as defined in Executive Order 12866, as amended by Executive Order 14094. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for Executive Order 12866 review. Documentation of any changes made in response to the Executive Order 12866 review is available in the docket. The EPA prepared an economic analysis of the potential impacts associated with this action. This analysis is briefly summarized in section V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted. This analysis, '' Economic Impact Analysis for the National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing Amendments, Final'' (Docket ID No. EPA–HQ–OAR–2019–0392), is also available in the docket.

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 1982.06. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The final rule ICR describes changes to the reporting and recordkeeping requirements for the Rubber Tire Manufacturing NESHAP associated with the incorporation of reporting and recordkeeping requirements associated with the new and existing source MACT standards for THC, fPM, and metal HAP.

Respondents/affected entities: Owners or operators of rubber tire manufacturing facilities conducting rubber processing operations that are major sources.

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

Estimated number of respondents: 12.

Frequency of response: Initially, semiannually, annually.

Total estimated burden: The average annual burden to industry over the next 3 years from the recordkeeping and reporting requirements is estimated to be 1,162 hours per year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting costs for all facilities to comply with all of the requirements in the NESHAP is estimated to be $2.12 million per year. This includes labor costs of $149,000 per year and non-labor capital and operations and maintenance costs of $1.97 million per year for monitoring systems for the final rubber processing amendments when they are fully implemented.

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

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The Agency has determined that none of the 4 ultimate parent companies owning the potentially affected facilities are small entities, as defined by the U.S. Small Business Administration. Details of this analysis are presented in '' Economic Impact Analysis for the National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing Amendments, Final,'' which is located in the docket for this action (Docket ID No. EPA–HQ–OAR–2019–0392).

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. The EPA does not know of any rubber tire manufacturing facilities owned or operated by Indian Tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (as amended by Executive Order 14094), and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The risks due to HAP emissions from this source category were found to be acceptable for all populations (*e.g.,* with inhalation cancer risks less than or equal to 4-in-1 million for all populations and non-cancer hazard indexes are less than 1). The methodology and the results of the demographic analyses are included in a technical report, Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Rubber Tire Manufacturing Source Category Operations, available in the docket for this action (Docket ID No. EPA–HQ–OAR–2019–0392). The first-

time emission standards for THC and fPM (or metal HAP) promulgated by this action, will further reduce emissions and thereby protect children's health.

However, EPA's Policy on Children's Health applies to this action. Information on how the Policy was applied is available under "What analysis of children's environmental health did we conduct" in section V.G. of this preamble.

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

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. In this final action, the EPA is setting emission standards for two previously unregulated pollutants. This does not impact energy supply, distribution, or use.

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

This action involves technical standards. Therefore, the EPA conducted searches for the Rubber Tire Manufacturing NESHAP through the Enhanced National Standards Systems Network (NSSN) Database managed by the American National Standards Institute (ANSI). We also conducted a review of voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 5, 25A, 29, SW–846, M0010, SW–846 M3542, SW–846, M8270E, M204, PS 8A, and QA Procedure 2. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to that of the EPA's referenced method, the EPA ordered a copy of the standard and reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA referenced methods. The EPA may reconsider determinations of impracticality when additional information is available for any particular VCS.

Two VCS were identified as acceptable alternatives to EPA test methods for this final rule. The VCS ANSI/ASME PTC 19.10–1981, Part 10 of *Flue and Exhaust Gas Analyses,* is an acceptable alternative to EPA Method 3B (the manual portion only and not the instrumental portion). The voluntary consensus standard ASTM D6784–16—Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method) D6784–16 was revised and approved in 2016 to include better quality control than the earlier 2008 version. It is an acceptable alternative to EPA Methods 101A and Method 29 (portion for particulate mercury only) as a method for measuring mercury. [Note: this acceptability applies to concentrations between approximately 0.5 and 100 micrograms per normal cubic meter (μg/Nm^3)].

The EPA is incorporating by reference the VCS ANSI/ASME PTC 19.10–1981–Part 10, Flue and Exhaust Gas Analyses," a method for quantitatively determining the gaseous constituents of exhausts resulting from stationary combustion and includes a description of the apparatus, and calculations which are used in conjunction with Performance Test Codes to determine quantitatively, as an acceptable alternative to EPA Method 3B of appendix A–2 to 40 CFR part 60 for the manual procedures only and not the instrumental procedures. The manual method segment of the oxygen determination is performed through the absorption of oxygen. This VCS may be obtained from Two Park Avenue, New York, NY 10016–5990; phone: (800) 843–2763; email: *CustomerCare@asme.org;* website: *https://www.asme.org.*

The EPA is incorporating by reference the VCS ASTM D6784–16, "Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method)" as an acceptable alternative to EPA Method 29 (particulate portion for mercury only) as a method for measuring mercury concentrations ranging from approximately 0.5 to 100 μg/Nm^3. This test method describes equipment and procedures for obtaining samples from effluent ducts and stacks, equipment and procedures for laboratory analysis, and procedures for calculating results. VCS ASTM D6784–16 allows for additional flexibility in the sampling and analytical procedures for the earlier version of the same standard VCS ASTM D6784–02 (Reapproved 2008).

The EPA is also incorporating by reference EPA–454/R–98–015, Fabric Filter Bag Leak Detection Guidance, Office of Air Quality Planning and Standards (OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, September 1997. This document provides guidance on the use of triboelectric monitors as fabric filter bag leak detectors. The document includes fabric filter and monitoring system descriptions; guidance on monitor selection, installation, setup, adjustment, and operation; and quality assurance procedures. The document is reasonably available and can be viewed or downloaded at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=2000D5T6.PDF.*

Detailed information on the VCS search and determination can be found in the memorandum, "Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing Amendments," which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0329). The two VCS may be obtained from *https://www.astm.org* or from the ASTM Headquarters at 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania, 19428–2959. The standards are available to everyone at a cost determined by ASTM. The costs of obtaining these methods are not a significant financial burden, making the methods reasonably available.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on communities with EJ concerns. The risks due to HAP emissions from this source category were found to be acceptable for all populations (*e.g.,* with inhalation cancer risks less than or equal to 4-in-1 million for all populations and non-cancer hazard indexes are less than 1). The methodology and the results of the demographic analyses are included in a technical report, Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Rubber Tire Manufacturing Source Category Operations, available in the docket for this action (Docket ID No. EPA–HQ–OAR–2019–0392).

The EPA believes that this action is not likely to result in new disproportionate and adverse effects on communities with environmental justice concerns. We expect this final rule to achieve reductions in HAP emissions. This final rule will provide additional

benefits to all populations, including these demographic groups that have a greater representation in the 50 km radius of modeled facilities, by establishing new emission limits for rubber processing.

The information supporting this Executive Order review is contained in section V.F. of this preamble.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action does not meet the criteria under 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Michael S. Regan,

Administrator.

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

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

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

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

Subpart A—General Provisions

■ 2. Amend § 63.14 by revising paragraphs (f)(1), (i)(105), and (o)(4) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(f) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981; §§ 63.116(c) and (h); 63.128(a); 63.145(i); 63.309(k); 63.365(b); 63.457(k); 63.490(g); 63.772(e) and (h); 63.865(b); 63.997(e); 63.1282(d) and (g); 63.1450(a), (b), (d), (e), (g); 63.1625(b); table 5 to subpart EEEE; §§ 63.3166(a); 63.3360(e); 63.3545(a); 63.3555(a); 63.4166(a); 63.4362(a); 63.4766(a); 63.4965(a); 63.5160(d); table 4 to subpart UUUU; tables 5, 16, and 17 to subpart XXXX; table 3 to subpart YYYY; table 4 to subpart AAAAA; § 63.7322(b); table 5 to subpart DDDDD; §§ 63.7822(b); 63.7824(e); 63.7825(b); 63.8000(d); table 4 to subpart JJJJJ; table 4 to subpart KKKKK; §§ 63.9307(c); 63.9323(a); 63.9621(b) and (c);table 4 to subpart SSSSS; tables 4 and 5 of subpart UUUUU; table 1 to subpart ZZZZZ; §§ 63.11148(e); 63.11155(e); 63.11162(f); 63.11163(g); table 4 to subpart JJJJJJ; §§ 63.11410(j); 63.11551(a); 63.11646(a); 63.11945.

* * * * *

(i) * * *

(105) ASTM D6784–16, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), Approved March 1, 2016; IBR approved for §§ 63.1450(d); 63.9621; table 5 to subpart AAAAA; table 17 to subpart XXXX; table 5 to subpart UUUUU; appendix A to subpart UUUUU.

* * * * *

(o) * * *

(4) EPA–454/R–98–015, Fabric Filter Bag Leak Detection Guidance, September 1997; IBR approved for §§ 63.548(e); 63.864(e); 63.6012(c); 63.7525(j); 63.8450(e); 63.8600(e); 63.9632(a); 63.9804(f); 63.11224(f); 63.11423(e). (Available at: *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=2000D5T6.pdf*).

* * * * *

Subpart XXXX—National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

■ 3. Amend § 63.5981 by revising paragraph (a)(1) to read as follows:

§ 63.5981 Am I subject to this subpart?

(a) * * *

(1) Rubber tire manufacturing includes rubber processing, the production of rubber tires and/or the production of components integral to rubber tires, the production of tire cord, and the application of puncture sealant. Components of rubber tires include, but are not limited to, rubber compounds, sidewalls, tread, tire beads, tire cord and liners. Other components often associated with rubber tires but not integral to the tire, such as wheels, inner tubes, tire bladders, and valve stems, are not components of rubber tires or tire cord and are not subject to this subpart.

* * * * *

■ 4. Amend § 63.5982 by revising paragraphs (b)(1), (b)(4), and (c) to read as follows:

§ 63.5982 What parts of my facility does this subpart cover?

* * * * *

(b) * * *

(1) The tire production affected source is the collection of all processes that use or process cements and solvents as defined in § 63.6022, located at any rubber tire manufacturing facility. It includes, but is not limited to: Storage and mixing vessels and the transfer equipment containing cements and/or solvents; wastewater handling and treatment operations; tread and cement operations; tire painting operations; ink and finish operations; undertread cement operations; process equipment cleaning materials; bead cementing operations; tire building operations; green tire spray operations; extruding, to the extent cements and solvents are used; cement house operations; marking operations; calendar operations, to the extent solvents are used; tire striping operations; tire repair operations; slab dip operations; other tire building operations, to the extent that cements and solvents are used; and balance pad operations.

* * * * *

(4) The rubber processing affected source is the collection of all rubber mixing processes (*e.g.,* banburys and associated drop mills) that either mix compounds or warm rubber compound before the compound is processed into components of rubber tires. The mixed rubber compound itself is also included in the rubber processing affected source. On and before November 29, 2024, there are no emission limitations or other requirements for the rubber processing affected source. The emission limitations for the rubber processing affected source are effective after November 29, 2024.

(c) An affected source that is not a rubber processing affected source is a new affected source if construction of the affected source commenced after October 18, 2000, and it met the applicability criteria of § 63.5981 at the time construction commenced. An affected source that is a rubber processing affected source is a new affected source if construction of the affected source commenced after November 16, 2023, and it met the applicability criteria of § 63.5981 at the time construction commenced.

* * * * *

■ 5. Amend § 63.5983 by revising paragraphs (b) and (d) to read as follows:

§ 63.5983 When do I have to comply with this subpart?

* * * * *

(b) If you own or operate an existing affected source that is not a rubber processing affected source, you must comply with the emission limitations for existing sources no later than July 11, 2005. If you own or operate a rubber processing affected sources that began construction or reconstruction before

November 16, 2023, you must comply with the emission limitations for existing rubber processing existing sources no later than November 29, 2027.

* * * * *

(d) You must meet the notification requirements in § 63.6016 according to the schedule in § 63.6016 and in subpart A of this part. Some of the notifications must be submitted before the date you are required to comply with the emission limitations in this subpart.

■ 6. Amend § 63.5990 by revising paragraphs (a) and (f)(2) to read as follows:

§ 63.5990 What are my general requirements for complying with this subpart?

(a) Before January 21, 2021, you must be in compliance with the applicable emission limitations specified in tables 1 through 4 to this subpart at all times, except during periods of startup, shutdown, and malfunction if you are using a control device to comply with an emission limit. After January 20, 2021, you must be in compliance with the applicable emission limitations specified in tables 1 through 4 to this subpart at all times. After November 29, 2024, you must be in compliance with the applicable emission limitations for rubber processing specified in tables 15 and 16 to this subpart at all times according to the compliance dates in § 63.5983.

* * * * *

(f) * * *

(2) Before January 21, 2021, ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d). After January 20, 2021, ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(1) and (2). The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2).

* * * * *

■ 7. Revise § 63.5992 to read as follows:

§ 63.5992 When must I conduct subsequent performance tests?

If you use a control system (add-on control device and capture system) to meet the emission limitations, you must also conduct a performance test at least once every 5 years following your initial compliance demonstration to verify control system performance and reestablish operating parameters or operating limits for control systems used to comply with the emissions limits. The requirements of this paragraph do not apply to the measurement of THC emissions that are monitored with a continuous emission monitoring system for demonstrating compliance with the THC emission limitations for rubber processing in § 63.6009. When complying with the emission limits for rubber processing in § 63.6009 for fPM or metal HAP based on averaging to comply with the facility-wide average alternatives, the subsequent performance tests must begin no later than 5 years after the first test of the averaged mixers is performed.

■ 8. Revise and republish § 63.5993 to read as follows:

§ 63.5993 What performance tests and other procedures must I use?

(a) If you use a control system to meet the emission limitations, you must conduct each performance test in table 5 to this subpart that applies to you, except that for the rubber processing affected source, you must conduct performance tests according to table 17 instead of table 5.

(b) Each performance test must be conducted according to the specific conditions specified in table 5 to this subpart, except that for the rubber processing affected source, you must conduct performance tests according to table 17 instead of table 5.

(c) Before January 21, 2021, you may not conduct performance tests during periods startup, shutdown, or malfunction, as specified in § 63.7(e)(1). After January 20, 2021, performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent the entire range of normal operation, including operational conditions for maximum emissions if such emissions are not expected during maximum production. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(d) Before January 21, 2021, you must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(1) unless otherwise specified in the test method. Each test run must last at least 1 hour. After January 20, 2021, you must conduct three separate test runs for each performance test required in this section, as specified in paragraph (c) of this section, unless otherwise specified in the test method. Each test run must last at least 1 hour.

(e) If you are complying with the emission limitations using a control system, you must also conduct performance tests according to the requirements in paragraphs (e)(1) through (e)(3) of this section as they apply to you. The provisions of paragraphs (e)(1) through (e)(3) of this section do not apply to the rubber processing subcategory.

(1) *Determining capture efficiency of permanent or temporary total enclosure.* Determine the capture efficiency of a capture system by using one of the procedures in Table 5 to this subpart.

(2) *Determining capture efficiency of an alternative method.* As an alternative to constructing a permanent or temporary total enclosure, you may determine the capture efficiency using any capture efficiency protocol and test methods if the data satisfy the criteria of either the Data Quality Objective or the Lower Confidence Limit approach in appendix A to subpart KK of this part.

(3) *Determining efficiency of an add-on control device.* Use Table 5 to this subpart to select the test methods for determining the efficiency of an add-on control device.

■ 9. Amend § 63.5996 by revising paragraph (b) to read as follows:

§ 63.5996 How do I demonstrate initial compliance with the emission limits for tire production affected sources?

* * * * *

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.6016(e).

■ 10. Amend § 63.5999 by revising paragraph (b) to read as follows:

§ 63.5999 How do I demonstrate initial compliance with the emission limits for tire cord production affected sources?

* * * * *

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.6016(e).

■ 11. Amend § 63.6002 by revising paragraph (b) to read as follows:

§ 63.6002 How do I demonstrate initial compliance with the emission limits for puncture sealant application affected sources?

* * * * *

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.6016(e).

■ 12. Amend § 63.6004 by revising paragraph (b) to read as follows:

§ 63.6004 How do I demonstrate continuous compliance with the emission limits for tire production affected sources?

* * * * *

(b) You must report each instance in which you did not meet an emission limit in table 1 to this subpart. You must also report each instance in which you did not meet the applicable requirements in table 10 to this subpart. These instances are deviations from the emission limits in this subpart. The deviations must be reported in accordance with the requirements in § 63.6017(e).

* * * * *

■ 13. Amend § 63.6006 by revising paragraph (b) to read as follows:

§ 63.6006 How do I demonstrate continuous compliance with the emission limits for tire cord production affected sources?

* * * * *

(b) You must report each instance in which you did not meet an applicable emission limit in table 2 to this subpart. You must also report each instance in which you did not meet the applicable requirements in table 12 to this subpart. These instances are deviations from the emission limits in this subpart. The deviations must be reported in accordance with the requirements in § 63.6017(e).

■ 14. Amend § 63.6008 by revising paragraph (b) to read as follows:

§ 63.6008 How do I demonstrate continuous compliance with the emission limitations for puncture sealant application affected sources?

* * * * *

(b) You must report each instance in which you did not meet an applicable emission limit in table 3 to this subpart. You must also report each instance in which you did not meet the applicable requirements in table 14 to this subpart. These instances are deviations from the emission limits in this subpart. The deviations must be reported in accordance with the requirements in § 63.6017(e).

■ 15. Add undesignated center heading "Emission Limits for Rubber Processing Affected Sources" immediately following § 63.6008.

■ 16. Redesignate §§ 63.6013 through 63.6015 as §§ 63.6020 through 63.6022 and transfer undesignated center "Other Requirements and Information" to immediately before newly redesignated § 63.6020.

■ 17. Redesignate §§ 63.6009 through 63.6012 as §§ 63.6016 through 63.6019 and transfer undesignated center heading "Notifications, Reports, and Records" to immediately before newly redesignated § 63.6016.

■ 18. Add new §§ 63.6009 through 63.6015, undesignated center heading "Emission Limits for Rubber Processing Affected Sources" before new §§ 63.6009, undesignated center heading "Testing and Initial Compliance Requirements for Rubber Processing Affected Sources" immediately following new § 63.6010, and undesignated center heading "Continuous Compliance Requirements for Rubber Processing Affected Sources" immediately following new § 63.6013 to read as follows:

Emission Limits for Rubber Processing Affected Sources

§ 63.6009 What emission limits must I meet for rubber processing affected sources?
§ 63.6010 What are my alternatives for meeting the emission limits for rubber processing affected sources?

Testing and Initial Compliance Requirements for Rubber Processing Affected Sources

§ 63.6011 How do I conduct tests and procedures for rubber processing affected sources?
§ 63.6012 What are my rubber processing monitoring installation, operation, and maintenance requirements?
§ 63.6013 How do I demonstrate initial compliance with the emission limits for rubber processing affected sources?

Continuous Compliance Requirements for Rubber Processing Affected Sources

§ 63.6014 How do I monitor and collect data to demonstrate continuous compliance with the emission limits for rubber processing affected sources?
§ 63.6015 How do I demonstrate continuous compliance with the emission limits for rubber processing affected sources?

Emission Limits for Rubber Processing Affected Sources

§ 63.6009 What emission limits must I meet for rubber processing affected sources?

(a) You must meet the emission limit for total hydrocarbons (THC) and either total metal HAP or the alternative emission limit for filterable particulate matter (fPM) in table 15 to this subpart that applies to you. You may choose to comply with each emission limit for each rubber processing mixer separately or for a group of rubber processing mixers routed to the same control device or stack, or with an alternative for all mixers combined based on a facility-wide average.

(b) You must also meet each operating limit in table 16 to this subpart that applies to you.

§ 63.6010 What are my alternatives for meeting the emission limits for rubber processing affected sources?

(a) You must comply with the applicable emission limit for THC in table 15 of this subpart for each rubber processing mixer or a group of rubber processing mixers routed to the same control device, or you must demonstrate compliance by averaging among all mixers and comply with the limit as a facility-wide emission limit.

(b) You must demonstrate compliance with either the emission limit for fPM or the alternative emission limit for total metal HAP in table 15 of this subpart; if you demonstrate compliance with the alternative fPM emission limit, you do not have to demonstrate compliance with the emission limit for metal HAP. You must comply with the applicable emission limit for fPM or metal HAP in table 15 of this subpart for each rubber processing mixer or group of rubber processing mixers routed to the same control device, or you must demonstrate compliance by averaging among all mixers and comply with the limit as a facility-wide emission limit.

(c) For each rubber processing mixer, you must show that the control device and capture system meet the operating limits in table 16 to this subpart.

Testing and Initial Compliance Requirements for Rubber Processing Affected Sources

§ 63.6011 How do I conduct tests and procedures for rubber processing affected sources?

(a) Conduct any required compliance demonstration according to the requirements in § 63.5993 (b), (c), and (d).

(b) You must use the methods in table 17 of this subpart and according to

paragraphs (b)(1) through (b)(3) of this section to measure emissions and stack gas flow rates and characteristics to determine THC and fPM or metal HAP mass emission rates in grams per day.

(1) You must operate a THC CEMS in accordance with the requirements in § 63.6012 and Performance Specification 8A in appendix B to 40 CFR part 60. For the purposes of conducting the accuracy and quality assurance evaluations for CEMS, the reference method (RM) is Method 25A of appendix A–7 to 40 CFR part 60. Owners or operators are responsible for ensuring their instruments provide appropriate data continuously. If a THC monitor will be used for an emission stream that could have a wide variability in THC concentrations because of mixing both high-emitting and low-emitting compounds at different times, then a dual-span monitor should be considered for use. If the THC monitor is used for emissions that are relatively constant, then a dual-span monitor may not be needed, but it remains the responsibility of source owners or operators to make that determination. Owners and operators cannot discard from the compliance determination THC concentration data that exceed the calibration range of the monitor.

(2) Use the THC CEMS to conduct the initial compliance test for the first 15 mixer operating days after the applicable compliance date for each mixer. All THC values must be used as they are recorded by the THC CEMS, except that negative values equal to or greater than to −5 should be treated as zeros, and values less than (*i.e.,* more negative than) −5 cannot be used as valid compliance data in the calculations.

(3) To convert the THC concentration measurements to mass emission rates, you must measure the volumetric flow rate in the same duct or stack in which the THC concentration is monitored no less frequently than once every 5 years. You may use the same flow rate measurements that are completed for demonstrating compliance with the emission limits for fPM or total metal HAP according to table 17 of this subpart. If you change operations in a way that would likely result in a change to volumetric flow rate, you must conduct an additional measurement of the new volumetric flow rate.

(c) You must monitor mixed rubber compound processed in each mixer in Mg per day during the testing for THC. During the testing for fPM or total metal HAP, you must monitor the mixed rubber compound processed in each mixer in Mg for the same periods that fPM or total metal HAP testing runs are performed, excluding the mass of rubber processed during the time between fPM or metal HAP sampling runs.

(d) You must use the methods in paragraphs (d)(1) and (d)(2) of this section to calculate the THC emission rate for the 15-day initial compliance period to demonstrate initial compliance. You must use the average THC emission rate obtained during the first 15 mixer operating days after the applicable compliance date to determine initial compliance for each mixer, group of mixers routed to the same control device or stack, or all mixers combined if complying with the facility-wide average alternative.

(1) Use Equation 1 to paragraph (d)(1) of this section to calculate the 15-day average THC emission rate in grams THC per megagram of mixed rubber compound processed. This emission rate is calculated for each rubber mixer separately, group of mixers routed to the same control device or stack, or for all rubber mixers combined if complying with the facility-wide average alternative.

Equation 1 to Paragraph (d)(1)

$$E_{15\ days} = \frac{\left(\Sigma_{i=1}^{n} THC_i\right)}{\Sigma_{i=1}^{n} RP_i} \qquad \text{Eq. 1}$$

Where:

$E_{15\ days}$ = Emission rate of the THC emitted per total mass of mixed rubber compounds processed per 15-day period, grams THC per megagram of mixed rubber compound processed.

THC_i = Daily THC emissions for each day during the 15-day compliance period, grams/day, using the methods in paragraph (b) of this section. These THC emission values are calculated for each rubber mixer separately if compliance is demonstrated for each mixer separately, or for all rubber mixers combined if complying with the facility-wide average alternative. If you are demonstrating compliance for two or more mixers routed to the same control device or stack, then these THC emission values are calculated using the data for the combined mixer emissions at the common stack.

RP_i = Daily mass of mixed rubber compound processed for each day *i* during the 15-day compliance period, megagrams/day. These rubber mass processed values are calculated for each rubber mixer separately if compliance is demonstrated for each mixer separately, or for all rubber mixers combined if complying with the facility-wide emission average alternative. If you are demonstrating compliance for two or more mixers that are routed to the same control device or stack, then these rubber mass values are calculated for the combined mass processed for the mixers that share the common stack.

(2) Use Equation 2 to paragraph (d)(2) of this section to calculate the THC emission rate in grams per day THC as propane for each day *i* in the 15-day initial compliance period for rubber processing for each rubber mixer emission stack.

Equation 2 to Paragraph (d)(2)

$$THC_i = \frac{\left(THC_j\right)\left(44.097\frac{lb}{lb-mole}\right)(Q)(60\ min/hr)(H)(454\ grams/lb)}{\left(386.5\frac{ft3}{lb\ mole}-\right)(10^6)} \qquad \text{Eq. 2}$$

Where:

THC_i = Daily THC emissions from rubber processing, grams/day for each rubber mixer emission stack.

THC_j = Daily average THC concentration, parts per million by volume, for each day during the 15-day compliance period for rubber processing for each rubber mixer emission stack, as measured by the THC CEMS.

Q = Average volumetric flow rate of gas, dry standard cubic feet per minute, dscfm, for each rubber mixer emission stack from the most recent available emissions test.

H = Hours per day that rubber processing is performed in at least one of the mixers vented to the rubber mixer emission

stack for which emissions are being calculated.

(e) You must use Equation 3 to this paragraph to calculate the fPM emission rate in grams per megagram of mixed rubber compound processed or use Equation 4 to of this paragraph to calculate the metal HAP emission rate in grams per megagram of mixed rubber compound processed to demonstrate initial compliance. The rubber mass processed at each mixer must be recorded for the exact same period of time as the fPM or metal HAP emissions are measured at each mixer. If you are demonstrating compliance with the facility-wide emission average alternative, the relevant measurement of fPM or metal HAP, as appropriate, at each mixer does not need to be done simultaneously for all mixers, but all tests of mixers to be averaged must be done within the same 3-month period.

Equations 3 and 4 to Paragraph (e)

$$E_{PM} = \frac{\left(\Sigma_{i=1}^{n} fPM_i\right)}{\Sigma_{i=1}^{n} RP_i} \quad \text{Eq. 3}$$

Or

$$E_{MHAP} = \frac{\left(\Sigma_{i=1}^{n} MHAP_i\right)}{\Sigma_{i=1}^{n} RP_i} \quad \text{Eq. 4}$$

Where:

E_{fPM} = Emission rate of the fPM emitted in grams of fPM per megagram of mixed rubber compound processed.

fPM_i = Total grams of fPM emitted during the performance test, measured using EPA method 5. These fPM emission values are calculated for each rubber mixer i separately if compliance is demonstrated for each mixer separately, and it is summed for all rubber mixers combined if complying with the facility-wide average alternative.

RP_j = Total megagrams of mixed rubber compound mass processed rate recorded during the fPM (Eq. 3A) or total metal HAP emissions test (Eq. 3B).

E_{MHAP} = Emission rate of the total metal HAP in grams of metal HAP per megagram of mixed rubber compound processed.

$MHAP_i$ = Total grams of total metal HAP emitted during the performance test, measured using the methods specified in table 17 to this subpart. These total metal HAP emission values are calculated for each rubber mixer separately if compliance is demonstrated for each mixer separately, and it is summed for all rubber mixers combined if complying with the facility-wide average alternative.

N = Number of mixers included if complying with the facility-wide average alternative.

§ 63.6012 What are my rubber processing monitoring installation, operation, and maintenance requirements?

(a) You must install and operate a THC continuous emission monitoring system (CEMS) according to § 63.8 (b) and (c) and comply with the monitoring requirements of paragraphs (a)(1) and (2) of this section. Standard operating procedures must be incorporated into the monitoring plan required by § 63.5990(e).

(1) On each stack used to exhaust emissions from a rubber processing mixer to the atmosphere, you must install, operate, and maintain a THC CEMS in accordance with Performance Specification 8A of appendix B to 40 CFR part 60 and comply with all of the requirements for CEMS found in the general provisions, subpart A of this part. The THC CEMS must be installed downstream of any organic vapor control device (such as a thermal oxidizer), if present. A single THC CEMS may be used to monitor the combined emissions from multiple rubber mixers.

(2) You must operate and maintain each CEMS according to the quality assurance requirements in Procedure 1 of appendix F to 40 CFR part 60. Where a dual range analyzer is used, the daily calibration drift check must be performed for each operating range. For THC CEMS certified under Performance Specification 8A of appendix B to 40 CFR part 60, conduct the relative accuracy test audits required under Procedure 1 in accordance with Performance Specification 8, sections 8 and 11 using Method 25A in appendix A–7 to 40 CFR part 60 as the reference method; the relative accuracy must meet the criteria of Performance Specification 8, section 13.2.

(b) Parameter monitoring requirements. If you have an operating limit that requires the use of a continuous parameter monitoring system (CPMS), you must install, operate, and maintain each CPMS according to the procedures in paragraphs (b)(1) through (4) of this section by the applicable compliance date specified in § 63.5983. Standard operating procedures must be incorporated into the monitoring plan required by § 63.5990(e).

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four successive cycles of operation to have a valid hour of data.

(2) You must conduct all monitoring in continuous operation at all times that the mixer is operating.

(3) Determine the 1-hour block average of all recorded readings.

(4) Record the results of each inspection, calibration, and validation check.

(c) For each bag leak detection system (BLDS), you must meet any applicable requirements in paragraphs (c)(1) through (10) of this section. Standard operating procedures must be incorporated into the monitoring plan required by § 63.5990(e).

(1) The BLDS must be certified by the manufacturer to be capable of detecting fPM emissions at concentrations of 1.0 milligrams per dry standard cubic meter or less.

(2) The sensor on the BLDS must provide output of relative fPM emissions.

(3) The BLDS must be equipped with a device to continuously record the output signal from the sensor.

(4) The BLDS must have an alarm that will sound automatically when it detects an increase in relative fPM emissions greater than a preset level.

(5) The alarm must be located in an area where appropriate plant personnel will be able to hear it.

(6) For a positive-pressure fabric filter baghouse, each compartment or cell must have a bag leak detector (BLD). For a negative-pressure or induced-air fabric filter baghouse, the BLD must be installed downstream of the fabric filter. If multiple BLD are required (for either type of fabric filter baghouse), the detectors may share the system instrumentation and alarm.

(7) Each triboelectric BLDS must be installed, calibrated, operated, and maintained according to EPA–454/R–98–015, *Fabric Filter Bag Leak Detection Guidance,* (incorporated by reference; see § 63.14). Other types of bag leak

detection systems must be installed, operated, calibrated, and maintained according to the manufacturer's written specifications and recommendations. Standard operating procedures must be incorporated into the monitoring plan required by § 63.5990(e).

(8) At a minimum, initial adjustment of the system must consist of establishing the baseline output in both of the following ways in paragraphs (c)(8)(i) and (ii), according to section 5.0 of the EPA–454/R–98–015, *Fabric Filter Bag Leak Detection Guidance,* (incorporated by reference; see § 63.14):

(i) Adjust the range and the averaging period of the device.

(ii) Establish the alarm set points and the alarm delay time.

(9) After initial adjustment, the sensitivity or range, averaging period, alarm set points, or alarm delay time may not be adjusted except as specified in the monitoring plan required by § 63.5990(e). In no event may the range be increased by more than 100 percent or decreased by more than 50 percent over a 365-day period, unless such adjustment follows a complete fabric filter inspection that demonstrates that the fabric filter is in good operating condition, as defined in section 5.2 of the EPA–454/R–98–015, *Fabric Filter Bag Leak Detection Guidance,* (incorporated by reference; see § 63.14). You must record each adjustment.

(10) Record the results of each inspection, calibration, and validation check.

(d) For each emission unit equipped with an add-on air pollution control device, you must inspect each capture/collection and closed vent system at least once each calendar year to ensure that each system vents captured emissions through a closed system, except that dilution air may be added to emission streams for the purpose of controlling temperature at the inlet to a fabric filter. You must record the results of each inspection.

§ 63.6013 How do I demonstrate initial compliance with the emission limits for rubber processing affected sources?

(a) You must demonstrate initial compliance with each emission limit that applies to you according to table 17 to this subpart.

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.6016(e).

Continuous Compliance Requirements for Rubber Processing Affected Sources

§ 63.6014 How do I monitor and collect data to demonstrate continuous compliance with the emission limits for rubber processing affected sources?

(a) You must monitor and collect data to demonstrate continuous compliance with the emission limits for rubber processing affected sources as specified in table 18 to this subpart.

(b) You must monitor and collect data according to the requirements in § 63.6012.

§ 63.6015 How do I demonstrate continuous compliance with the emission limits for rubber processing affected sources?

(a) You must demonstrate continuous compliance with each applicable emission limit in table 15 and each operating limit in table 16 to this subpart using the methods specified in table 18 to this subpart.

(b) You must report each instance in which you did not meet an applicable emission limit in table 15 or operating limit in table 16 to this subpart. You must also report each instance in which you did not meet the applicable requirements in table 18 to this subpart. These instances are deviations from the emission limitations in this subpart. The deviations must be reported in accordance with the requirements in § 63.6017(e).

■ 19. Amend newly redesignated § 63.6016 by revising paragraphs (e) and (k) to read as follows:

§ 63.6016 What notifications must I submit and when?

* * * * *

(e) If you are required to conduct a performance test, design evaluation, or other initial compliance demonstration as specified in tables 5 through 8 and table 17 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). The Notification must contain the information listed in table 20 to this subpart for compliance reports. The Notification of Compliance Status must be submitted according to the following schedules, as appropriate:

(1) For each initial compliance demonstration required in tables 6 through 8 and table 17 to this subpart that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) Before January 21, 2021, for each initial compliance demonstration required in tables 6 through 8 and table 17 to this subpart that includes a performance test conducted according to the requirements in table 5 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2). After January 20, 2021, for each initial compliance demonstration required in tables 6 through 8 to this subpart that includes a performance test conducted according to the requirements in table 5 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to §§ 63.10(d)(2) and 63.6017(h)(1) through (3).

* * * * *

(k) You must submit to the Administrator notification reports of the following recorded information. Beginning on January 21, 2021, or once the reporting form has been available on the Compliance and Emissions Data Reporting Interface (CEDRI) website for 1-year, whichever date is later, you must submit all subsequent notification of compliance status reports required in §§ 63.9(h) and paragraphs (d) through (i) of this section to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov*). You must use the appropriate electronic report form (*i.e.,* template) on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart. The date on which the report form becomes available will be listed on the CEDRI website. If the reporting form for the notification of compliance status report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1 year, you must begin submitting all subsequent notification of compliance status reports via CEDRI. The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed to be CBI. Although we

do not expect persons to assert a claim of CBI, if persons wish to assert a CBI, if you claim that some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate electronic reporting form found on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX CEDRI as described earlier in this paragraph. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. Where applicable, you may assert a claim of the EPA system outage, in accordance with § 63.6017(i), or force majeure, in accordance with § 63.6017(j), for failure to timely comply with this requirement.

■ 20. Amend newly redesignated § 63.6017 by:z

■ a. Revising paragraphs (a), (b) introductory text, and (c) introductory text;

■ b. Adding paragraph (c)(11);

■ c. Revising paragraphs (d) introductory text, (d)(2), (g), and (h) introductory text; and

■ d. Adding paragraph (k).

The revisions and additions read as follows:

§ 63.6017 What reports must I submit and when?

(a) You must submit each applicable report in table 20 to this subpart.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in table 20 to this subpart and according to the requirements in paragraphs (b)(1) through (5) of this section.

* * * * *

(c) The compliance report must contain information specified in paragraphs (c)(1) through (11) of this section.

* * * * *

(11) For each rubber processing affected source, whether you are complying with the particulate matter or total metal HAP emission limit alternative in table 15 to this subpart.

(d) Before January 21, 2021, for each deviation from an emission limitation (emission limit or operating limit) that occurs at an affected source where you are not using a CPMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (4) and paragraphs (d)(1) and (2) of this section. This includes periods of startup, shutdown, and malfunction when the affected source is operating. After January 20, 2021, for each deviation from an emission limitation (emission limit or operating limit) that occurs at an affected source where you are not using a CPMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (3) and (d)(1) through (3) of this section. This includes periods of startup, shutdown, and malfunction of process, air pollution control, and monitoring equipment when the affected source is operating.

* * * * *

(2) Before January 20, 2021, information on the number, duration, and cause of deviations (including unknown cause, if applicable) and the corrective action taken. After January 20, 2021, for each failure to meet an applicable standard, record and retain a list of the cause of deviations (including unknown cause, if applicable), affected sources or equipment, whether the failure occurred during startup, shutdown, or malfunction, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

* * * * *

(g) Before July 24, 2021, or once the reporting form has been available on the CEDRI website for 1-year, whichever date is later, if acceptable to both the Administrator and you, you may submit reports and notifications electronically. Beginning on July 24, 2021, or once the reporting form has been available on the CEDRI website for 1-year, whichever date is later, you must submit compliance reports required in paragraphs (c)(1) through (11) of this section, as applicable, to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov*). You must use the appropriate electronic report form on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart. The date on which the report form becomes available will be listed on the CEDRI website. If the reporting form for the compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1-year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if persons wish to assert a CBI, if you claim that some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate electronic reporting form found on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX CEDRI as described earlier in this paragraph. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(h) After January 20, 2021, if you use a control system (add-on control device and capture system) to meet the emission limitations, you must also conduct a performance test at least once every 5 years following your initial compliance demonstration to verify control system performance and reestablish operating parameters or operating limits for control systems used to comply with the emissions limits. Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (h)(1) through (3) of this section. The provisions of this

paragraph (h) and (h)(1) and (h)(3) do not apply to control devices and capture systems to control THC emissions from rubber processing when monitored by a THC CEMS.

* * * * *

(k) For each THC CEMS, within 60 days after the reporting period ends, you must report all of the calculated 15-day rolling average values derived from the THC CEMS for THC emissions in grams of THC per megagram (g/Mg) of rubber processed, either for each mixer individually, or for all mixers that use a single control device or stack, or that are averaged to comply on the basis of the facility-wide average alternative.

■ 21. Amend newly redesignated § 63.6018 by redesignating paragraph (e) as paragraph (f) and adding new paragraph (e) to read as follows:

§ 63.6018 What records must I keep?

* * * * *

(e) For each rubber processing affected source, you must keep the records specified in table 19 to this subpart to show continuous compliance with each emission limit that applies to you.

* * * * *

■ 22. Revise newly redesignated § 63.6020 to read as follows:

§ 63.6020 What parts of the General Provisions apply to me?

Table 22 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

■ 23. Amend newly redesignated § 63.6021 by revising paragraph (c)(1) to read as follows:

§ 63.6021 Who implements and enforces this subpart?

* * * * *

(c) * * *

(1) Approval of alternatives to the requirements in §§ 63.5981 through 63.5984, 63.5986, 63.5988, and 63.6009.

* * * * *

■ 24. Amend newly redesignated § 63.6022 by adding the definitions "Bag leak detector system (BLDS)" and "Particulate matter (PM) detector" in alphabetical order to read as follows:

§ 63.6022 What definitions apply to this subpart?

* * * * *

Bag leak detector system (BLDS) is a type of PM detector used on fabric filters to identify an increase in PM emissions resulting from a broken filter bag or other malfunction and sound an alarm.

* * * * *

Particulate matter (PM) detector means a system that is continuously capable of monitoring PM loading in the exhaust of a fabric filter in order to detect bag leaks, upset conditions, or control device malfunctions and sounds an alarm at a preset level. A PM detector system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effects to continuously monitor relative particulate loadings. A BLDS is a type of PM detector.

* * * * *

■ 25. Revise tables 1 through 3 to subpart XXXX of part 63 to read as follows:

Table 1 to Subpart XXXX of Part 63—Emission Limits for Tire Production Affected Sources

As stated in § 63.5984, you must comply with the emission limits for each new, reconstructed, or existing tire production affected source in the following table:

For each . . .	You must meet the following emission limits
1. Option 1—HAP constituent option.	a. Emissions of each HAP in table 21 to this subpart must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total cements and solvents used at the tire production affected source, and b. Emissions of each HAP not in table 21 to this subpart must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total cements and solvents used at the tire production affected source.
2. Option 2—production-based option.	Emissions of HAP must not exceed 0.024 grams per megagram (0.00005 pounds per ton) of rubber used at the tire production affected source.

Table 2 to Subpart XXXX of Part 63—Emission Limits for Tire Cord Production Affected Sources

As stated in § 63.5986, you must comply with the emission limits for tire cord production affected sources in the following table:

For each . . .	You must meet the following emission limits
1. Option 1.a (production-based option)—Existing tire cord production affected source.	Emissions must not exceed 280 grams HAP per megagram (0.56 pounds per ton) of fabric processed at the tire cord production affected source.
2. Option 1.b (production-based option)—New or reconstructed tire cord production affected source.	Emissions must not exceed 220 grams HAP per megagram (0.43 pounds per ton) of fabric processed at the tire cord production affected source.
3. Option 2 (HAP constituent option)—Existing, new or reconstructed tire cord production affected source.	a. Emissions of each HAP in table 21 to this subpart must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total coatings used at the tire cord production affected source, and b. Emissions of each HAP not in table 21 to this subpart must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total coatings used at the tire cord production affected source.

Table 3 to Subpart XXXX of Part 63—Emission Limits for Puncture Sealant Application Affected Sources

As stated in § 63.5988(a), you must comply with the emission limits for puncture sealant application affected sources in the following table:

For each . . .	You must meet the following emission limits
1. Option 1.a (percent reduction option)—Existing puncture sealant application spray booth.	Reduce spray booth HAP (measured as volatile organic compounds (VOC)) emissions by at least 86 percent by weight.
2. Option 1.b (percent reduction option)—New or reconstructed puncture sealant application spray booth.	Reduce spray booth HAP (measured as VOC) emissions by at least 95 percent by weight.
3. Option 2 (HAP constituent option) Existing, new or reconstructed puncture sealant application spray booth.	a. Emissions of each HAP in table 21 to this subpart must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total puncture sealants used at the puncture sealant affected source, and b. Emissions of each HAP not in table 21 to this subpart must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total puncture sealants used at the puncture sealant affected source.

■ 26. Revise table 5 to subpart XXXX of part 63 to read as follows:

Table 5 to Subpart XXXX of Part 63—Requirements for Performance Tests

As stated in § 63.5993, you must comply with the requirements for performance tests in the following table:

If you are using . . .	You must . . .	Using . . .	According to the following requirements . . .
1. A thermal oxidizer	a. Measure total HAP emissions, determine destruction efficiency of the control device, and establish a site-specific firebox secondary chamber temperature limit at which the emission limit that applies to the affected source is achieved.	i. Method 25 or 25A performance test and data from the temperature monitoring system.	(1). Measure total HAP emissions and determine the destruction efficiency of the control device using Method 25 (40 CFR part 60, appendix A–7). You may use Method 25A (40 CFR part 60, appendix A–7) if: an exhaust gas volatile organic matter concentration of 50 parts per million (ppmv) or less is required to comply with the standard; the volatile organic matter concentration at the inlet to the control system and the required level of control are such that exhaust volatile organic matter concentrations are 50 ppmv or less; or because of the high efficiency of the control device exhaust, is 50 ppmv or less, regardless of the inlet concentration. (2). Collect firebox secondary chamber temperature data every 15 minutes during the entire period of the initial 3-hour performance test, and determine the average firebox temperature over the 3-hour performance test by computing the average of all of the 15-minute reading.
2. A carbon adsorber (regenerative).	a. Measure total organic HAP emissions, establish the total regeneration mass or volumetric flow, and establish the temperature of the carbon bed within 15 minutes of completing any cooling cycles. The total regeneration mass, volumetric flow, and carbon bed temperature must be those at which the emission limit that applies to the affected source is achieved.	i. Method 25 or Method 25A performance test and data from the carbon bed temperature monitoring device.	(1). Measure total HAP emissions using Method 25. You may use Method 25A, if an exhaust gas volatile organic matter concentration of 50 ppmv or less; or because of the high efficiency of the control device, exhaust is 50 ppmv or less is required to comply with the standard; the volatile organic matter concentration (VOMC) at the inlet to the control system and the required level of control are such that exhaust VOMCs are 50 ppmv or less; or because of the high efficiency of the control device, exhaust is 50 ppmv or less, regardless of the inlet concentration. (2). Collect carbon bed total regeneration mass or volumetric flow for each carbon bed regeneration cycle during the performance test. (3). Record the maximum carbon bed temperature data for each carbon bed regeneration cycle during the performance test. (4). Record the carbon bed temperature within 15 minutes of each cooling cycle during the performance test. (5). Determine the average total regeneration mass or the volumetric flow over the 3-hour performance test by computing the average of all of the readings. (6). Determine the average maximum carbon bed temperature over the 3-hour performance test by computing the average of all of the readings. (7). Determine the average carbon bed temperature within 15 minutes of the cooling cycle over the 3-hour performance test.
3. Any control device other than a thermal oxidizer or carbon adsorber.	Determine control device efficiency and establish operating parameter limits with which you will demonstrate continuous compliance with the emission limit that applies to the affected source.	EPA-approved methods and data from the continuous parameter monitoring system.	Conduct the performance test according to the site-specific plan submitted according to § 63.7(c)(2)(i).
4. All control devices	a. Select sampling ports' location and the number of traverse ports.	Method 1 or 1A of 40 CFR part 60, appendix A.	Locate sampling sites at the inlet and outlet of the control device and prior to any releases to the atmosphere.

If you are using . . .	You must . . .	Using . . .	According to the following requirements . . .
	b. Determine velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A.	
	c. Conduct gas analysis	Method 3, 3A, or 3B of 40 CFR part 60 appendix A; as an alternative to the manual portion of Method 3B, you may use ANSI/ASME PTC 19.10–1981 (incorporated by reference; see § 63.14).	
	d. Measure moisture content of the stack gas.	Method 4 of 40 CFR part 60, appendix A.	
5. A permanent total enclosure (PTE).	Measure the face velocity across natural draft openings and document the design features of the enclosure.	Method 204 of CFR part 51, appendix M.	Capture efficiency is assumed to be 100 percent if the criteria are met
6. Temporary total enclosure (TTE).	Construct a temporarily installed enclosure that allows you to determine the efficiency of your capture system and establish operating parameter limits.	Method 204 and the appropriate combination of Methods 204A–204F of 40 CFR part 51, appendix M.	

Table 8 to Subpart XXXX of Part 63—Initial Compliance With the Emission Limits for Puncture Sealant Application Affected Sources

■ 27. Revise the heading of table 8 to subpart XXXX of part 63 to read as set forth above.

■ 28. Redesignate tables 15 through 17 to subpart XXXX of part 63 as tables 20 through 22 to subpart XXXX of part 63.

■ 29. Add new tables 15 through 17 and tables 18 and 19 to subpart XXXX of part 63 to read as follows:

Table 15 to Subpart XXXX of Part 63—Emission Limits for Rubber Processing Affected Sources

As stated in § 63.6009(a), you must comply with the emission limits for each new, reconstructed, or existing rubber processing affected source in the following table:

For each . . .	You must meet the following emission limits
1. Existing rubber processing affected sources.	a. THC emissions, measured as propane must not exceed 64 grams/Mg mixed rubber compound processed, based on a 15-day rolling average. b. fPM emissions must not exceed 3.0 grams/Mg mixed rubber compound processed, or metal HAP emissions must not exceed 0.051 grams/Mg mixed rubber compound processed.
2. New or reconstructed rubber processing affected sources.	a. THC emissions, measured as propane must not exceed 64 grams/Mg mixed rubber compound processed, based on a 15-day rolling average. b. fPM emissions must not exceed 3.0 grams/Mg mixed rubber compound processed, or metal HAP emissions must not exceed 0.051 grams/Mg mixed rubber compound processed.

Table 16 to Subpart XXXX of Part 63—Operating Limits for Rubber Processing Control Devices

As stated in § 63.6009(b) you must comply with the operating limits for rubber processing affected sources in the following table:

For each . . .	You must . . .
1. For each rubber processing mixer.	a. Inspect each emission capture system or enclosure and closed vent system at least once each calendar year to ensure that each system or enclosure vents captured emissions through a closed system, except that dilution air may be added to emission streams for the purpose of controlling temperature at the inlet to a fabric filter. You must record the results of each inspection.
2. Each mixer equipped with a fabric filter.	a. Maintain and operate the fabric filter such that the BLDS detector alarm condition does not exist for more than 5 percent of the total operating time in a 6-month period; and comply with the requirements in § 63.6012(c). Standard operating procedures must be incorporated into the monitoring plan required by § 63.5990(e).

Table 17 to Subpart XXXX of Part 63—Initial Compliance With the Emission Limits for Rubber Processing Affected Sources

As stated in § 63.6011, you must show initial compliance with the emission limits for the rubber processing affected source and conduct performance tests according to the following table:

For the following emission limit . . .	You must do the following . . .
1. The applicable THC emission limit in table 15 to this subpart.	a. Continuously measure THC emissions using a THC CEMS and mass of mixed rubber compounds processed over a period of not less than 15 days. b. Use the applicable methods in item 2 in this table to measure exhaust flow rate in dry standard cubic feet per minute to determine THC mass emissions in grams per day using the equations and procedures in § 63.6011. c. Demonstrate that you have achieved the applicable THC emission limits in table 15 to this subpart according to the applicable procedures in § 63.6011.
2. The applicable fPM emission limit in table 15 to this subpart.	a. Conduct the performance test according to the site-specific plan submitted according to § 63.7(c)(2)(i). b. Measure fPM and the mass of mixed rubber compound processed for at least 3 runs lasting at least 1 hour per run. c. Use Method 5 in appendix A–3 to 40 CFR part 60 to measure fPM emissions. d. Select sampling ports' location and the number of traverse ports according to Method 1 or 1A of 40 CFR part 60, appendix A–1. e. Determine velocity and volumetric flow rate according to Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A–1 and A–2. f. Conduct the gas analysis according to Method 3, 3A, or 3B of 40 CFR part 60, appendix A–2; as an alternative to the manual portion of Method 3B, you may use ANSI/ASME PTC 19.10–1981 (incorporated by reference; see § 63.14). g. Measure moisture content of the stack gas using Method 4 of 40 CFR part 60, appendix A–3. h. Demonstrate that you have achieved the applicable fPM emission limit in table 15 to this subpart according to the applicable procedures in § 63.6011. i. Install, operate, and maintain the BLDS according to the requirements in § 63.6012(c) at the time of the initial compliance test. Standard operating procedures for the BLDS must be incorporated into the monitoring plan required by § 63.5990(e).
3. The applicable metal HAP alternative emission limit in table 15 to this subpart.	a. Conduct the performance test according to the site-specific plan submitted according to § 63.7(c)(2)(i). b. Measure metal HAP emissions and mass of mixed rubber compound processed for at least 3 runs lasting at least 1 hour per run. c. Use Method 29 in appendix A–8 to 40 CFR part 60 to measure metal HAP emissions. As an alternative to Method 29 for mercury only, you may use the particulate mercury portion of ASTM D6784–16 to measure particulate mercury emissions (incorporated by reference; see § 63.14). d. Select sampling ports' location and the number of traverse ports according to Method 1 or 1A of 40 CFR part 60, appendix A–1. e. Determine velocity and volumetric flow rate according to Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A–1 and A–2. f. Conduct the gas analysis according to Method 3, 3A, or 3B of 40 CFR part 60, appendix A–2; as an alternative to the manual portion of Method 3B, you may use ANSI/ASME PTC 19.10–1981 (incorporated by reference; see § 63.14). g. Measure moisture content of the stack gas using Method 4 of 40 CFR part 60, appendix A–3. h. Demonstrate that you have achieved the applicable metal HAP emission limit in table 15 to this subpart according to the applicable procedures in § 63.6011. i. Install, operate, and maintain the BLDS according to the requirements in § 63.6012(c) at the time of the initial compliance test. Standard operating procedures for the BLDS must be incorporated into the monitoring plan required by § 63.5990(e).

Table 18 to Subpart XXXX of Part 63—Continuous Compliance With the Emission Limitations for Rubber Processing Affected Sources

As stated in § 63.6014(a), you must show continuous compliance with the emission limitations for rubber processing affected sources according to the following table:

For . . .	You must demonstrate continuous compliance by . . .
1. Each THC continuous emissions monitoring system installed in a rubber processing mixer affected source.	a. Continuously monitoring and record the THC concentration and calculate the daily THC emissions in grams per day.
2. Each rubber processing affected source.	a. Continuously monitor the daily mass of mixed rubber compound processed for each mixer in megagrams per day.
3. Each rubber processing affected source fabric filter.	a. Maintain and operate the fabric filter so that the alarm on the BLDS is not activated and an alarm condition does not exist for more than 5 percent of the total operating time in each 6-month reporting period; and continuously recording the output from the BLDS detection system; and b. Each time the alarm sounds and the owner or operator initiates corrective actions within 1 hour of the alarm, 1 hour of alarm time will be counted (if the owner or operator takes longer than 1 hour to initiate corrective actions, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate corrective actions); if inspection of the fabric filter system demonstrates that no corrective actions are necessary, no alarm time will be counted.

Table 19 to Subpart XXXX of Part 63—Minimum Data for Continuous Compliance With the Emission Limitations for Rubber Processing Affected Sources

As stated in § 63.6018(e), you must maintain minimum data to show continuous compliance with the emission limitations for rubber processing affected sources according to the following table:

For . . .	You must maintain . . .
1. Rubber processing affected sources using an emission capture system or enclosure to capture emissions and performing the inspections specified in table 16 to this subpart.	a. Records of the annual inspections of the enclosure and closed vent system specified in table 16 to this subpart.
2. Rubber processing affected sources using a continuous emissions monitoring system to comply with the THC limits in table 15 to this subpart.	a. Records of each THC concentration measurement and each inspection, calibration, and validation check. b. Records of each flow rate measurement.
3. Rubber processing affected sources subject to the THC emission limit in table 15 to this subpart.	a. Records of daily mass of mixed rubber compound processed for each mixer, in megagrams per day. b. Records of each calculated 15-day rolling average THC emission rate, in grams THC per Mg rubber processed for each mixer separately or for all mixers combined and complying with the facility-wide emission limit.
4. Rubber processing affected sources subject to the fPM or metal HAP emission limits in table 15 to this subpart.	a. Records of applicable periodic fPM or metal HAP performance tests. b. Records of mass of mixed rubber compound processed during the periodic fPM or metal HAP performance test. c. Records of the calculated fPM or metal HAP emission rate, in grams fPM or metal HAP per Mg rubber processed for each mixer separately or for all mixers combined and complying with the facility-wide emission limit. d. Records of each inspection, calibration, and validation check of the bag leak detection system. e. Records of each bag leak detection system alarm, the amount of time taken to initiate corrective action after the alarm, and the response and corrective action taken.

■ 30. Revise newly redesignated table 20 to subpart XXXX of part 63 to read as follows:

Table 20 to Subpart XXXX of Part 63—Requirements for Reports

As stated in § 63.6017, you must submit each report that applies to you according to the following table.

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period. If there were no periods during which the CPMS was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS was out-of-control during the reporting period.	Semiannually according to the requirements in § 63.6017(b), unless you meet the requirements for annual reporting in § 63.6017(f) for the tire production affected source only.
	b. If you have a deviation from any emission limitation during the reporting period at an affected source where you are not using a CPMS, the report must contain the information in § 63.6010(d). If the deviation occurred at a source where you are using a CMPS or if there were periods during which the CPMS were out-of-control as specified in § 63.8(c)(7), the report must contain the information required by § 63.5990(f)(3).	Semiannually according to the requirements in § 63.6017(b), unless you meet the requirements for annual reporting in § 63.6017(f) for the tire production affected source only.
	c. Before January 21, 2021, If you had a startup, shutdown, and malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i). After January 20, 2021, this information is no longer required.	Before January 21, 2021, semiannually according to the requirements in § 63.6017(b), unless you meet the requirements for annual reporting in § 63.6017(f). After January 20, 2021, this information is no longer required.

You must submit a(n)	The report must contain . . .	You must submit the report . . .
2. Before January 21, 2021, immediate startup, shutdown, and malfunction report if you had a startup, shutdown, and malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan. After January 20, 2021, this report is no longer required.	a. Before January 21, 2021, actions taken for the event. After January 20, 2021, this report is no longer required.	Before January 21, 2021, by fax or telephone within 2 working days after starting actions inconsistent with the plan. After January 20, 2021, this report is no longer required.
	b. Before January 21, 2021, the information in (§ 63.10(d)(5)(ii)). After January 20, 2021, this report is no longer required.	Before January 21, 2021, by letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§ 63.10(d)(5)(ii)). After January 20, 2021, this report is no longer required.
3. Performance Test Report	If you use a control system (add-on control device and capture system) to meet the emission limitations.	Conduct a performance test at least once every 5 years following your initial compliance demonstration according to the requirements in § 63.5993.

■ 31. Amend newly redesignated table 22 to subpart XXXX of part 63 by:
■ a. Revising the introductory text to the first table (that applies before January 21, 2021); and
■ b. Revising the second table (that applies after January 20, 2021).

The revisions read as follows:

Table 22 to Subpart XXXX of Part 63—Applicability of General Provisions to This Subpart XXXX

Before January 21, 2021, as stated in § 63.6020, you must comply with the applicable General Provisions (GP) requirements according to the following table:

* * * * *

After January 20, 2021, as stated in § 63.6020, you must comply with the applicable General Provisions (GP) requirements according to the following table:

Citation	Subject	Brief description of applicable sections	Applicable to subpart XXXX?	
			Using a control device	Not using a control device
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes	Yes.
§ 63.4	Prohibited Activities	Prohibited activities; compliance date; circumvention; severability.	Yes	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes	Yes.
§ 63.6(a)	Applicability	GP apply unless compliance extension; GP apply to area sources that become major.	Yes	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes	Yes.
§ 63.6(b)(6)	[Reserved].			
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources that Become Major.		No	No.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes	Yes.
§ 63.6(c)(3)–(4)	[Reserved].			
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources that Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes	Yes.
§ 63.6(d)	[Reserved].			
§ 63.6(e)(1)(i)–(ii)	Operations and Maintenance		No. See § 63.5990(a)	No. See § 63.5990(a).
§ 63.6(e)(1)(iii)–(2)	Operation and Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; and operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.		No	No.
§ 63.6(f)(1)	Startup, Shutdown, and Malfunction Exemption.		No. See § 63.5990(a)	No.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test; operation and maintenance plans; records; inspection.	Yes	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes	Yes.

Citation	Subject	Brief description of applicable sections	Applicable to subpart XXXX?	
			Using a control device	Not using a control device
§ 63.6(h)	Opacity/Visible Emissions (VE) Standards.		No	No.
§ 63.6(i)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with rule.	Yes	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates		No	No.
§ 63.7(a)(3)	CAA section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes	No.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test	Yes	No.
§ 63.7(b)(2)	Notification of Rescheduling	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes	No.
§ 63.7(c)	Quality Assurance/Test Plan	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: test plan approval procedures; performance audit requirements; and internal and external quality assurance procedures for testing.	Yes	No.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes	No.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during startup, shutdown, and malfunction.	No. See § 63.5993(c)	No.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to rule and the EPA test methods unless Administrator approves alternative.	Yes	No.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; and conditions when data from an additional test run can be used.	Yes	No.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes	No.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status report; and keep data for 5 years.	Yes	No.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test	Yes	No.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes, if using a CEMS	Yes, if using a CEMS.
§ 63.8(a)(3)	[Reserved].			
§ 63.8(a)(4)	Monitoring with Flares		No	No.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Applies as modified by § 63.5990(e) and (f).	Applies as modified by § 63.5990(e) and (f).
§ 63.8(c)(1)(i)	Routine and Predictable Startup, Shutdown, and Malfunction.		No	No.
§ 63.8(c)(1)(ii)	Startup, Shutdown, and Malfunction not in Startup, Shutdown, and Malfunction Plan.		No	No.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How the Administrator determines if source complying with operation and maintenance requirements; review of source operation and maintenance procedures, records, manufacturer's instructions, recommendations, and inspection of monitoring system.	No	No.
§ 63.8(c)(2)–(3)	Monitoring System Installation.	Must install to get representative emission and parameter measurements; must verify operational status before or at performance test.	Yes	Yes.
§ 63.8(c)(4)	CMS Requirements		Applies as modified by § 63.5990(f).	Applies as modified by § 63.5990(f).
§ 63.8(c)(5)	Continuous Opacity Monitoring Systems Minimum Procedures.		No	No.
§ 63.8(c)(6)	CMS Requirements		Applies as modified by § 63.5990(e).	Applies as modified by § 63.5990(e).
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods, including reporting	Yes	Yes.

Citation	Subject	Brief description of applicable sections	Applicable to subpart XXXX?	
			Using a control device	Not using a control device
§ 63.8(d)(1)–(2)	CMS Quality Control		Applies as modified by § 63.5990(e) and (f).	Applies as modified by § 63.5990(e) and (f).
§ 63.8(d)(3)	Written Procedures for CMS		No. See § 63.5990(f)(2).	No. See § 63.5990(f)(2).
§ 63.8(e)	CMS Performance Evaluation.	Performance evaluation of continuous monitoring systems	Yes	Yes.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Requesting an alternative to the relative accuracy test for a CEMS.	Yes	Yes.
§ 63.8(g)	Data Reduction	How to reduce CMS data	Applies as modified by § 63.5990(f).	Applies as modified by § 63.5990(f).
§ 63.9(a)	Notification Requirements	Applicability and state delegation	Yes	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	Submit notification 120 days after effective date; notification of intent to construct/reconstruct, notification of commencement of construct/reconstruct, notification of startup; and contents of each.	Yes	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed best available control technology or lowest achievable emission rate.	Yes	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes	No.
§ 63.9(f)	Notification of VE/Opacity Test.		No	No.
§ 63.9(g)	Additional Notifications When Using CMS.	Additional notification requirements for sources with continuous monitoring systems.	Yes	Yes.
§ 63.9(h)	Notification of Compliance Status.	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes	Yes.
§ 63.9(k)	Notification	Electronic reporting procedures	Yes, as specified in § 63.9(j)	Yes, as specified in § 63.9(j).
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than 1 source.	Yes	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General Requirements; keep all records readily available; and keep for 5 years.	Yes	Yes.
§ 63.10(b)(2)(i) and (iv–v).	Records related to Startup, Shutdown, and Malfunction.		No	No.
§ 63.10(b)(2)(ii)	Recordkeeping of failures to meet a standard.		No. *See* 63.6017 for recordkeeping of (1) date, time, cause, and duration; (2) listing of affected source or equipment, whether the failure occurred during startup, shutdown, or malfunction, an estimate of the quantity of each regulated pollutant emitted over the standard and the method used to estimate the emissions; and (3) actions to minimize emissions and correct the failure.	
§ 63.10(b)(2)(iii), (vi), and (x)–(xi).	CMS Records	Malfunctions, inoperative, out-of-control; calibration checks; adjustments, maintenance.	Yes	Yes.
§ 63.10(b)(2)(vii)–(ix).	Records	Measurements to demonstrate compliance with emission limitations; performance test, performance evaluation, and VE observation results; and measurements to determine conditions of performance tests and performance evaluations.	Yes	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes	Yes.
§ 63.10(b)(2)(xiii)	Records	Emission levels relative to the criterion for obtaining permission to use an alternative to the relative accuracy test.	Yes	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes	Yes.
§ 63.10(c)(1)–(14)	Records	Additional recordkeeping requirements for sources with continuous monitoring systems.	Yes	Yes.
§ 63.10(c)(15)	Use of SSM plan		No	No.

Citation	Subject	Brief description of applicable sections	Applicable to subpart XXXX?	
			Using a control device	Not using a control device
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes	No.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.		No	No.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	See § 63.6017(d) for malfunction reporting requirements	No	No.
§ 63.10(e)	Additional CMS Reports	Additional reporting requirements for sources with continuous monitoring systems.	Yes	Yes.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive	Yes	Yes.
§ 63.11	Flares		No	No.
§ 63.12	Delegation	State authority to enforce standards	Yes	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes	Yes.
§ 63.14	Incorporation by Reference	Test methods incorporated by reference	Yes	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes	Yes.

[FR Doc. 2024–26895 Filed 11–27–24; 8:45 am]

BILLING CODE 6560–50–P