



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[EPA-HQ-OAR-2014-0830; FRL-9950-10-OAR]**

**RIN 2060-AS99**

**National Emission Standards for Aerospace Manufacturing and Rework Facilities Risk and Technology Review; Clarification**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to amend the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Aerospace Manufacturing and Rework Facilities. In this action, we are clarifying the compliance date for the handling and storage of waste.

**DATES:** This rule is effective on **[insert date 60 days after the date of publication in the Federal Register]** without further notice, unless the EPA receives significant and relevant adverse comment by **[Insert date 30 days after the date of publication in the Federal Register]**. If the EPA receives significant and relevant adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2014-0830, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2014-0830. All documents in this docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov>, or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about this direct final action, contact Ms. Kim Teal, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5580; fax number: (919) 541-5450; and email address: [teal.kim@epa.gov](mailto:teal.kim@epa.gov). For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, (202) 564-1395, [cox.john@epa.gov](mailto:cox.john@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Background information. On December 7, 2015 (80 FR 76152), the EPA finalized amendments to the Aerospace Manufacturing and

Rework Facilities NESHAP based on our Risk and Technology Review. In this action, we are clarifying the intended compliance date for sources subject to the recently finalized handling and storage of waste requirements.

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

I. General Information

- A. Why is the EPA using a direct final rule?
- B. Does this action apply to me?
- C. What should I consider as I prepare my comments for the EPA?

II. What are the amendments in this direct final rule?

III. Statutory and Executive Order Reviews

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
- I. National Technology Transfer and Advancement Act (NTTAA)
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act (CRA)

**I. General Information**

A. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no significant and relevant adverse comment.

In the final rule published December 7, 2015, we inadvertently failed to identify the compliance date for sources subject to the requirements for handling and storage of waste. Therefore, in this document we are correcting that oversight. In the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend the National Emission Standards for Aerospace Manufacturing and Rework Facilities (40 CFR part 63, subpart GG). If significant and relevant adverse comments are received on the proposal, we will withdraw this direct final rule. However, we will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives significant and relevant adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

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. Industrial Source Categories Affected By This Action**

| Source Category                                     | NESHAP            | NAICS <sup>1</sup> Code |
|---|-------------------|-------------------------|
| Aerospace<br>Manufacturing and<br>Rework Facilities | Aerospace         | 336411                  |
|   | Manufacturing and | 336412                  |
|   | Rework Facilities | 336413                  |
|   |                   | 336414                  |
|   |                   | 336415                  |
|   |                   | 336419                  |
|   |                   | 481111                  |
|   |                   | 481112                  |
|   |                   | 481211                  |
|   |                   | 481212                  |

<sup>1</sup> 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 categories listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit this information to the EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify

electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, and Attention Docket ID No. EPA-HQ-OAR-2014-0830.

**II. What are the amendments in this direct final rule?**

This direct final rule provides a compliance date of December 7, 2018, for sources subject to the requirements for handling and storage of waste in 40 CFR part 63, subpart GG. In the final rule dated December 7, 2015, we regulated specialty coating application operations for the first time. The compliance date for these new requirements was December 7, 2018. We also revised and clarified requirements for handling and storage of waste, and our intent was to specify the same December 7, 2018, compliance date for these revised requirements (80 FR 76172-74). However, we neglected to specify a compliance date for these revised waste handling and storage requirements

in the regulatory text. Reading the regulatory text as now written would imply that the compliance date for these revised waste handling and storage requirements would be September 1, 1998. Therefore, we are correcting the rule text at 40 CFR 63.749(a)(3) to make it clear that the December 7, 2018, compliance date also applies to sources subject to the waste storage and handling requirements.

The EPA is accepting comments only on the specific issue raised in this direct final action and the accompanying proposed rule, the compliance date for handling and storage of waste. The EPA is not reopening or accepting comment on any other aspect of the NESHAP for Aerospace Manufacturing and Rework Facilities.

### **III. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

#### B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB Control Number 2060-0314. This action does not impose any new information collection burden because it serves only to provide a compliance date for the handling and storage of waste requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This action will not impose any costs on small entities. No facilities meeting the Small Business Administration's definition of a small business will incur costs. 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 the 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. No tribal facilities are known to be engaged in the aerospace manufacturing or rework surface coating operations that would be affected by this action. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of

“covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does **not** have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This action serves only to provide a compliance date for the previously promulgated handling and storage of waste requirements.

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.

Dated: July 26, 2016.

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Gina McCarthy,  
Administrator.

For the reasons stated in the preamble, part 63 of 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 GG—National Emission Standards for Aerospace  
Manufacturing and Rework Facilities**

2. Section 63.749 is amended by revising paragraph (a) (3) to read as follows:

**§ 63.749 Compliance dates and determinations.**

(a) \* \* \*

(3) Each owner or operator of a specialty coating application operation or handling and storage of waste operation that begins construction or reconstruction after February 17, 2015, shall be in compliance with the requirements of this subpart on December 7, 2015, or upon startup, whichever is later. Each owner or operator of a specialty coating application operation or handling and storage of waste operation that is existing on February 17, 2015, shall be in compliance with the requirements of this subpart on or before December 7, 2018.

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