



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 63**

**[EPA-HQ-OAR-2018-0747; FRL-10010-12-OAR]**

**RIN 2060-AU16**

### **National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing Residual Risk and Technology Review**

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is taking final action on the residual risk and technology review (RTR) conducted for the Miscellaneous Coating Manufacturing (MCM) source category regulated under national emission standards for hazardous air pollutants (NESHAP). These final amendments also address emissions during periods of startup, shutdown, and malfunction (SSM), including clarifying regulatory provisions for certain vent control bypasses, provisions for electronic reporting of performance test results, performance evaluation reports, compliance reports, and Notification of Compliance Status (NOCS) reports; and provisions to conduct periodic performance testing of oxidizers used to reduce emissions of organic hazardous air pollutants (HAP).

**DATES:** This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2018-0747. 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 electronically through <https://www.regulations.gov/>. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries will be accepted. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, contact Ms. Angela Carey, Sector Policies and Programs Division (E143-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2187; fax number: (919) 541-0516; and email address: [carey.angela@epa.gov](mailto:carey.angela@epa.gov). For specific information regarding the risk modeling methodology, contact Ms. Darcie Smith, 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) 541-2076; fax number: (919) 541-0840; and email address: [smith.darcie@epa.gov](mailto:smith.darcie@epa.gov). For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and

Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue, NW, Washington DC 20460; telephone number: (202) 564-1395; and email address: *cox.john@epa.gov*.

## **SUPPLEMENTARY INFORMATION:**

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

|        |                                                                                            |
|--------|--------------------------------------------------------------------------------------------|
| ANSI   | American National Standards Institute                                                      |
| CAA    | Clean Air Act                                                                              |
| CDX    | Central Data Exchange                                                                      |
| CEDRI  | Compliance and Emissions Data Reporting Interface                                          |
| CFR    | Code of Federal Regulations                                                                |
| EPA    | Environmental Protection Agency                                                            |
| HAP    | hazardous air pollutants(s)                                                                |
| HI     | hazard index                                                                               |
| HQ     | hazard quotient                                                                            |
| ICR    | Information Collection Request                                                             |
| IFR    | internal floating roof                                                                     |
| km     | kilometer                                                                                  |
| LDAR   | leak detection and repair                                                                  |
| MACT   | maximum achievable control technology                                                      |
| MCM    | miscellaneous coating manufacturing                                                        |
| MIR    | maximum individual risk                                                                    |
| NAAQS  | National Ambient Air Quality Standards                                                     |
| 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                                                            |
| OSHA   | Occupational Safety and Health Administration                                              |
| PB-HAP | hazardous air pollutants known to be persistent<br>and bio-accumulative in the environment |
| PM     | particulate matter                                                                         |
| POM    | polycyclic organic matter                                                                  |
| ppmv   | parts per million by volume                                                                |

|           |                                                                         |
|-----------|-------------------------------------------------------------------------|
| ppmw      | parts per million by weight                                             |
| PRD       | pressure relief device                                                  |
| REL       | reference exposure limit                                                |
| RFA       | Regulatory Flexibility Act                                              |
| RIN       | Regulatory Information Number                                           |
| RTR       | residual risk and technology review                                     |
| SSM       | startup, shutdown, and malfunction                                      |
| the Court | the United States Court of Appeals for the District of Columbia Circuit |
| TOSHI     | target organ-specific hazard index                                      |
| tpy       | tons per year                                                           |
| UMRA      | Unfunded Mandates Reform Act                                            |
| VCS       | voluntary consensus standards                                           |
| VOC       | volatile organic compounds                                              |

*Background information.* On September 4, 2019 (84 FR 46610), the EPA proposed revisions to the National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing (MCM NESHAP) facilities NESHAP in conjunction with our RTR. 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 the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing*, in the MCM Docket (Docket ID No. EPA-HQ-OAR-2018-0747). 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:

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

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

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

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

L. 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 <sup>1</sup> Codes |
|----------------------------------------------|--------------------------|
| Miscellaneous Coating Manufacturing Industry | 3255, 3259               |

<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 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/miscellaneous-coating-manufacturing-national-emission-standards>. 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 the 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, links to project websites for the RTR source categories.

### *C. Judicial Review and Administrative Reconsideration*

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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 HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. “Major sources” are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, 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, 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).<sup>1</sup> 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

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<sup>1</sup> On April 21, 2020, as the Agency was preparing the final rule for signature, a decision was issued in *LEAN v. EPA*, 955 F. 3d. 1088 (D.C. Cir. 2020) in which the Court held that the EPA has an obligation to set standards for unregulated pollutants as part of technology reviews under CAA section 112(d)(6). At the time of signature, the mandate in that case had not been issued and the EPA is continuing to evaluate the decision.

the MACT standards pursuant to CAA section 112(f).<sup>2</sup> For more information on the statutory authority for this rule, see the proposal preamble (84 FR 46610, September 4, 2019) and the memorandum, *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology*, December 14, 2017, available in the docket for this rulemaking.

*B. What is the MCM source category and how does the NESHAP regulate HAP emissions from the source category?*

The EPA promulgated the MCM NESHAP on December 11, 2003 (68 FR 69185). The standards are codified at 40 CFR part 63, subpart HHHHH. The MCM industry consists of facilities that are engaged in their manufacture without regard to the particular end uses or consumers of such products. The manufacturing of these products may occur in any combination at any facility. The source category covered by this MACT standard currently includes 43 facilities.

The MCM source category includes the collection of equipment (*i.e.*, process vessels; storage tanks; components such as pumps, valves, and connections; wastewater tanks; heat exchangers; and transfer racks) that is used to manufacture coatings at a facility. MCM operations may also include certain cleaning operations. Coatings manufactured at MCM facilities are materials such as paints, inks, or adhesives that are intended to be applied to a substrate to form a protective, decorative, or functional layer (*e.g.*, an adhesive) and consist of a mixture of resins, pigments, solvents, and/or other additives. Coatings are produced by a manufacturing operation in which materials are blended, mixed, diluted, or otherwise

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<sup>2</sup> 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.”).

formulated. Coatings do not include materials made in processes where a formulation component is synthesized by a chemical reaction or separation activity and then transferred to another vessel where it is formulated to produce a material used as a coating, where the synthesized or separated component is not stored prior to formulation.

The equipment controlled by the MCM NESHAP includes process vessels, storage tanks for feedstocks and products, equipment leak components (pumps, compressors, agitators, pressure relief devices (PRDs), sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems), wastewater tanks, heat exchangers, and transfer racks.

The current NESHAP regulates process vessels and storage tanks based on the volume of the process vessel or storage tank and the maximum true vapor pressure of the organic HAP processed or stored. Control requirements range from the use of tightly fitted lids on process vessels to also capturing and reducing organic HAP emissions through the use of add-on controls (*i.e.*, a flare, oxidizer, or condenser). For halogenated vent streams from process vessels and storage tanks, the use of a flare is prohibited, and a halogen reduction device (*i.e.*, an acid gas scrubber) is required after a combustion control device. For storage tanks, facilities may comply with the provisions in 40 CFR part 63, subpart HHHHH, by complying with the provisions in 40 CFR part 63, subpart WW.

The NESHAP regulates emissions from equipment leaks at existing sources by requiring compliance with leak inspection and repair provisions using sight, sound, and smell in 40 CFR part 63, subpart R, or alternatively, the leak detection and repair (LDAR) provisions in 40 CFR part 63, subpart TT or UU. New sources are required to comply with the LDAR provisions in 40 CFR part 63, subpart TT or UU.

The NESHAP regulates wastewater streams by requiring the use of fixed roofs on wastewater tanks, treating the wastewater (either on-site or off-site) as a hazardous waste under 40 CFR part 264, 265, or 266, or using enhanced biological treatment if the wastewater contains less than 50 parts per million by weight (ppmw) of partially soluble HAP. If the wastewater is treated as a hazardous waste under 40 CFR part 264, 265, or 266, it may be treated by steam stripping or incineration. These standards apply only to wastewater streams that contain total partially soluble and soluble HAP at an annual average concentration greater than or equal to 4,000 ppmw and loads greater than or equal to 750 pounds per year (lb/yr) at an existing source. For new sources, these standards apply only to wastewater streams that contain total partially soluble and soluble HAP at an annual average concentration greater than or equal to 1,600 ppmw and any partially soluble and soluble HAP load.

The NESHAP regulates transfer operations if the operation involves the bulk loading of coating products that contain 3.0 million gallons per year or more of HAP with a weighted average HAP partial pressure greater than or equal to 1.5 pounds per square inch, absolute. Regulated transfer operations are required to reduce emissions by using a closed vent system and a control device (other than a flare) to reduce emissions by at least 75 percent; using a closed vent system and a flare for a non-halogenated vent stream; or using a vapor balancing system. When a non-flare combustion device is used to control a halogenated vent stream, then a halogen reduction device must be used either before or after the combustion device. If used after the combustion device, the halogen reduction device must meet either a minimum 95-percent reduction or a maximum 0.45 kilograms per hour (kg/hr) emission rate of hydrogen halide or halogen. If used before the combustion device, the halogen reduction device must meet a maximum 0.45 kg/hr emission rate of hydrogen halide or halogen.

The NESHAP requires heat exchangers to meet the provisions of 40 CFR part 63, subpart F, 40 CFR 63.104. Section 63.104 requires the implementation of a LDAR or monitoring program for heat exchange systems, unless the system meets certain design and operation provisions, or it is a once-through system that meets certain National Pollution Discharge Elimination System (NPDES) permit provisions.

*C. What changes did we propose for the MCM source category in our September 4, 2019, proposal?*

On September 4, 2019, the EPA published a proposed rule in the **Federal Register** for the MCM NESHAP, 40 CFR part 63, subpart HHHHH, that took into consideration the RTR analyses. We proposed to find that after compliance with the current NESHAP (*i.e.*, MACT standards) the risks to public health from the source category are acceptable, and that additional emission controls are not necessary to provide an ample margin of safety. Based on our technology review, we did not identify any cost-effective developments in practices, processes, or control technologies for the source category. Accordingly, we proposed no changes to the existing emission control requirements in 40 CFR part 63, subpart HHHHH, based on the risk assessment or the technology review.

We proposed the following amendments to improve rule effectiveness, provide regulatory flexibility, and comply with a legal ruling:

- a new requirement for electronic submittal of notifications, semi-annual reports, and compliance reports (which include performance test reports);
- revisions to the SSM provisions of the NESHAP to ensure that they are consistent with the Court decision in *Sierra Club v. EPA*, 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted source owners or operators from the requirement to comply

with otherwise applicable CAA section 112(d) emission standards during periods of SSM;

- revisions to account for instances where 40 CFR part 63, subpart HHHHH, cross-references other subparts that contain SSM provisions;
- language to add 40 CFR 63.8005(h) to clarify that any periods during which a control device for a process vessel is bypassed must be included in demonstrating compliance with the emission reduction provisions for process vessels in Table 1 to 40 CFR part 63, subpart HHHHH;
- revisions to 40 CFR 63.8000(b)(2), which allows the opening of a safety device at any time conditions require it to avoid unsafe conditions, to clarify that such an opening to avoid unsafe conditions is considered a deviation, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h);
- removal of references to paragraph (d)(4) of the Occupational Safety and Health Administration (OSHA) Hazard Communication standard (29 CFR 1910.1200), which dealt with OSHA-defined carcinogens, and replacing that reference with a list of HAP that must be regarded as potentially carcinogenic based on EPA guidelines;
- a new requirement to fulfill performance testing and reestablish operating limits no less frequently than every 5 years for sources that are using add-on controls to demonstrate compliance, unless they are already required to perform periodic testing as a condition of renewing their title V operating permit; and
- to IBR alternative test methods and references to updated alternative test methods.

### **III. What is included in this final rule?**

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the MCM source category. This action also finalizes the changes to the NESHAP described in section II.C of this preamble, as proposed.

*A. What are the final rule amendments based on the risk review for the MCM source category?*

This section describes the final decisions for the MCM NESHAP (40 CFR part 63, subpart HHHHH) being promulgated pursuant to CAA section 112(f). The EPA proposed no changes to this subpart based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from this source category are acceptable, and that the NESHAP at 40 CFR part 63, subpart HHHHH, provides an ample margin of safety to protect public health, and that more stringent standards are not necessary to prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not requiring additional emission controls under CAA section 112(f)(2) for this subpart in this action.

*B. What are the final rule amendments based on the technology review for the MCM source category?*

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6).

*C. What are the final rule amendments addressing emissions during periods of SSM?*

We are finalizing the proposed amendments to the MCM NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club v. EPA* 551 F. 3d 1019 (D.C. Cir. 2008), 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 (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. Previously, the 2003 MCM NESHAP included exemptions for standards during SSM. As detailed in section IV.D of the proposal preamble (84 FR 46610, September 4, 2019), the final rule removes the SSM exemptions (see 40 CFR 63.8000(a)), consistent with the Court decision in *Sierra Club v. EPA*, 551 F. 3d 1019 (D.C. Cir. 2008).

Table 10 to subpart HHHHH of 40 CFR part 63 (General Provisions applicability table) is being revised to change the specification of the requirements that apply during periods of SSM. We eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemptions. The EPA also made other harmonizing changes to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemptions. We proposed to find that facilities in this source category can meet the applicable emission standards in the MCM NESHAP at all times, including periods of startup and shutdown, without additional standards or work practices. The EPA considered the requirements for control device bypasses and for safety devices that we are finalizing in this rule when proposing to find that the standards can be met at all times after the SSM provisions are revised. We received no information to cause us to change our conclusion; therefore, the EPA is finalizing the proposed determination that no additional standards are needed to address

emissions during startup and shutdown periods. The legal rationale and detailed changes for startup and shutdown periods that we are finalizing here are set forth in the September 4, 2019, preamble to the proposed rule. See 84 FR 46629 through 46630.

Further, as proposed, the EPA is not including standards for malfunctions, except as related to the proposed revisions related to control device bypasses and for safety devices. As discussed in section IV.D of the September 4, 2019, proposal preamble, 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, although the EPA has the discretion to set standards for malfunctions where feasible. See 84 FR 46629 through 46630. For this source category, we proposed at 40 CFR 63.8005(h) to provide a method to account for control device bypass periods (including malfunction periods) when evaluating compliance with the overall control efficiency requirements for process vessels in Table 1 to 40 CFR part 63 subpart HHHHH, and we solicited commenters to provide additional information.

We are revising the General Provisions table to 40 CFR part 63, subpart HHHHH, to eliminate requirements that include rule language providing an exemption for periods of SSM. Finally, we are revising as proposed the Deviation Notification Report and related records as they relate to malfunctions, as further described below. As discussed in detail in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.8000(a) that the standards apply at all times. Refer to section IV.D.1 of the proposal preamble for a detailed discussion of these amendments (84 FR 46629, September 4, 2019).

We are finalizing amendments to account for instances where 40 CFR part 63, subpart HHHHH, cross-references other subparts that contain SSM provisions. Listed in 40 CFR 63.8000(f) are the referenced provisions in subparts SS, TT, and UU of 40 CFR part 63 that

contain references to SSM periods that will no longer apply after the compliance date for these amendments. Listed in 40 CFR 63.8000(f)(10) through (22) are the paragraphs or phrases within the paragraphs that will not apply after the applicable compliance date for the amendments as a result of the final SSM revisions.

Because we are finalizing the revisions to remove the SSM provisions and require compliance at all times, we are also finalizing the amendment to add 40 CFR 63.8005(h) to account for bypass periods in determining compliance with the emission percent reduction provisions in Table 1 to 40 CFR part 63, subpart HHHHH, for process vessels. These amendments will apply to process vessels with closed vent systems and add-on controls that contain bypass lines that could divert a vent stream to the atmosphere. We are finalizing the revisions that owners or operators must measure and record during each semiannual compliance period the hours that the control device was bypassed and the source's total operating hours. They must use the overall control efficiency required in Table 1, the total operating hours, and the control efficiency of the control device to determine the allowable bypass hours during the semiannual compliance period using Equation 1 in 40 CFR 63.8005(h). These changes are required because SSM periods that may involve bypassing of the control device cannot be excluded and must now be included in determining compliance.

Because we are finalizing the revisions to remove the SSM provisions and require compliance at all times, we are also finalizing the revisions to 40 CFR 63.8000(b)(2) so that opening of a safety device to avoid unsafe conditions is considered a deviation, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h). We are also finalizing the proposed revisions to revise 40 CFR 63.8080(c), which is the provision requiring a record of each time a safety device is opened, to add additional recordkeeping

provisions consistent with those for other deviations. In the event a safety device is opened, the owners or operators will be required to comply with the general duty provision in 40 CFR 63.8000(a) to minimize emissions at all times, and to report and record information related to deviations as specified in 40 CFR 63.8075 and 63.8080, respectively, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h).

*D. What other changes have been made to the NESHAP?*

The EPA is amending 40 CFR 63.8055(b)(4), as proposed, to remove a reference to paragraph (d)(4) of the OSHA’s Hazard Communication standard addressing OSHA-defined carcinogens. We are replacing the reference to carcinogens in 29 CFR 1910.1200(d)(4) with a new table, Table 11 to 40 CFR part 63, subpart HHHHH, that lists those organic HAP that must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. We are including organic HAP in Table 11 to 40 CFR part 63, subpart HHHHH, if they were categorized in the *EPA’s Prioritized Chronic Dose-Response Values for Screening Risk Assessments* (dated May 9, 2014) as a “human carcinogen,” “probable human carcinogen,” or “possible human carcinogen” according to *The Risk Assessment Guidelines of 1986* (EPA/600/8-87/045, August 1987), or as “carcinogenic to humans,” “likely to be carcinogenic to humans,” or with “suggestive evidence of carcinogenic potential” according to the *Guidelines for Carcinogen Risk Assessment* (EPA/630/P-03/001F, March 2005).

The EPA is making several additional revisions to 40 CFR part 63, subpart HHHHH, to clarify text or correct typographical errors, grammatical errors, and cross-reference errors. These editorial corrections and clarifications are summarized in Table 2 of this preamble.

TABLE 2. SUMMARY OF EDITORIAL AND MINOR CORRECTIONS TO 40 CFR PART 63, SUBPART HHHHH

| Provision            | Revision                  |
|----------------------|---------------------------|
| 40 CFR 63.7985(d)(2) | Remove the word “future.” |

|                                                     |                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 40 CFR 63.7990(a)                                   | Revise 40 CFR 63.7990(a) to refer to the affected source definition that is in 40 CFR 63.7990(b), and not in 40 CFR 63.7985(a).                                                                                                                                                                                          |
| 40 CFR 63.8000(a)(1)                                | Revise the reference to “§§63.8005 through 63.8025” to “§§63.8005 through 63.8030.”                                                                                                                                                                                                                                      |
| 40 CFR 63.8050(c)(3)                                | Correcting a printing error related to a May 13, 2005, amendment (70 FR 25676) to paragraph (c)(3) that resulted in deleting paragraphs (c)(3)(i) through (iii).                                                                                                                                                         |
| 40 CFR 63.8075(c)(1)                                | Clarify the paragraph to say §§63.8005 through 63.8030 include heat exchangers.                                                                                                                                                                                                                                          |
| 40 CFR 63.8075(d)                                   | Change the first reference to paragraph (d)(2) to instead refer to paragraph (d)(1).                                                                                                                                                                                                                                     |
| 40 CFR 63.8075(d)(2)(ii)                            | Remove the word “initial.”                                                                                                                                                                                                                                                                                               |
| 40 CFR 63.8090(b)                                   | Clarify the sentence to provide that you are in compliance with the subpart if you have a storage tank with a fixed roof, closed-vent system, and control device in compliance with 40 CFR part 60, subpart Kb, and you are in compliance with the monitoring, recordkeeping, and reporting requirements in the subpart. |
| 40 CFR 63.8105, definition of “Process vessel vent” | The EPA is not finalizing the proposed change to the last sentence of the definition, which would have replaced the words “process vessel vent” with “§63.8075 vent.”                                                                                                                                                    |
| Table 7 to 40 CFR part 63, subpart HHHHH            | Remove 2-Butanone (MEK) for Partially Soluble Hazardous Air Pollutants                                                                                                                                                                                                                                                   |
| Table 8 to 40 CFR part 63, subpart HHHHH            | Correct “FFFF” to “HHHHH.”                                                                                                                                                                                                                                                                                               |
| Table 10 to 40 CFR part 63, subpart HHHHH           | Change proposed column 3 entry for the row corresponding to §63.6(f)(1) from “Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e).” to “No. See §63.8000(a).”                                                                                        |
| Table 10 to 40 CFR part 63, subpart HHHHH           | Change proposed column 3 entry for the row corresponding to §63.6(h)(1) from “Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e).” to “No. See §63.8000(a).”                                                                                        |

We are including in the final rule a requirement for facilities to conduct control device performance testing no less frequently than once every 5 years when using emission capture

systems and add-on controls to demonstrate compliance. For facilities with title V permits that require comparable periodic testing prior to permit renewal, no additional testing is required, and we included provisions in the rule to allow facilities to harmonize the NESHAP testing schedule with a facility's current title V testing schedule.

*E. What are the requirements for electronic submission of notifications, reports, and performance test data to the EPA?*

The EPA is requiring owners or operators of MCM facilities to submit electronic copies of certain required notifications, semiannual reports, performance test reports, and performance evaluation reports, through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The final rule requires that certain performance test results be submitted using the Electronic Reporting Tool. For the semiannual compliance reports, the final rule requires that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the template for this report is located on the CEDRI website.

The electronic submittal of the reports addressed in this rulemaking 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 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. For a more thorough discussion 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 Docket ID No. EPA-HQ-OAR-2018-0747.

*F. What are the effective and compliance dates of the standards?*

The revisions to the MACT standards being promulgated in this action are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For all of the provisions we are finalizing under CAA sections 112(d)(2) and (3), all affected source owners or operators must comply with all of the amendments no later than 3 years after the effective date of the final rule, or upon startup, whichever is later. 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 MCM NESHAP, or upon startup, whichever is later.

All affected facilities would have to continue to meet the current provisions of 40 CFR part 63, subpart HHHHH, up to and no later than the applicable compliance date of the amended rule.

We are finalizing the amendments to the provisions for SSM by removing the exemptions from the emission limitations (*i.e.*, emission limits, operating limits, and work practice standards) during SSM periods and by removing the provision to develop and implement an SSM plan. We are also requiring that owners or operators take into account control device bypass periods, even if during SSM periods, when demonstrating compliance with the percent emission reduction provisions for process vessels in Table 1 to 40 CFR part 63, subpart HHHHH.

For all affected sources that commence construction or reconstruction on or before September 4, 2019, we are providing 3 years after the effective date of the final rule (or upon startup, whichever is later) for owners or operators to comply with the provisions that have been amended to remove the exemption from the emission limitations during SSM periods, with the exception of the vacated SSM exemptions contained in 40 CFR 63.6(f)(1) and (h)(1). We are revising Table 10 to clarify that for all affected sources, these exemptions do not apply following the Court vacatur in *Sierra Club v. EPA*, 551 F. 3d 1019 (D.C. Cir. 2008). For all affected sources that commenced construction or reconstruction after September 4, 2019, we are requiring that owners or operators comply with the amended provisions by the effective date of the final rule (or upon startup, whichever is later).

We are also adding a provision that notifications, performance test results, and semiannual compliance reports be submitted electronically, and that the semiannual compliance report be submitted electronically using a new template. We are requiring that all sources begin complying with the new electronic reporting provisions beginning no later than 3 years after the regulation's effective date.

The EPA selected these compliance dates based on experience with similar industries and the EPA's detailed justification for the selected compliance dates is included in the preamble to the proposed rule (84 FR 46634, September 4, 2019).

#### **IV. What is the rationale for our final decisions and amendments for the MCM source category?**

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble,

comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

#### *A. Residual Risk Review for the MCM Source Category*

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

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the September 4, 2019, proposed rule for 40 CFR part 63, subpart HHHHH (84 FR 46610). The results of the risk assessment for the proposal are presented briefly below in Table 3 of this preamble. More detail is in the residual risk technical support document, *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule*, available in the docket for this rulemaking.

Table 3 of this preamble provides a summary of the results of the inhalation risk assessment for the source category.

TABLE 3. MCM INHALATION RISK ASSESSMENT RESULTS<sup>5</sup>

| Risk Assessment | Number of Facilities <sup>1</sup> | Maximum Individual Cancer Risk (in 1 million) <sup>2</sup> | Population at Increased Risk of Cancer $\geq$ 1-in-1 million | Annual Cancer Incidence (cases per year) | Maximum Chronic Noncancer TOSHI <sup>3</sup> | Maximum Screening Acute Noncancer HQ <sup>4</sup> |
|-----------------|-----------------------------------|------------------------------------------------------------|--------------------------------------------------------------|------------------------------------------|----------------------------------------------|---------------------------------------------------|
| Source Category | 43                                | 6                                                          | 3,700                                                        | 0.002                                    | 0.4                                          | 2                                                 |
| Whole Facility  |                                   | 20                                                         | 50,100                                                       | 0.006                                    | 2                                            | -                                                 |

<sup>1</sup> Number of facilities evaluated in the risk analysis.

<sup>2</sup> Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

<sup>3</sup> Maximum target organ-specific hazard index (TOSHI). The target organ system with the highest TOSHI for the source category is respiratory.

<sup>4</sup> The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the reference exposure limit (REL). When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value. The HQ shown here is for glycol ethers, for which there are no other available acute dose-response values.

<sup>5</sup> For this source category, it was determined that baseline allowable emissions are equal to baseline actual emissions and, therefore, the risk summaries are the same.

The results of the inhalation risk modeling using the source category emissions for both actual and allowable emissions, as shown in Table 3 of this preamble, indicate the estimated cancer maximum individual risk (MIR) is 6-in-1 million, with chromium (VI) compounds from process vents as the major contributor to the risk. The total estimated cancer incidence from this source category is 0.002 excess cancer cases per year, or one excess case in every 500 years. Approximately 3,700 people are estimated to have cancer risks greater than or equal to 1-in-1 million from HAP emitted from the affected sources in this source category. The estimated maximum chronic noncancer TOSHI for the source category is 0.4 (respiratory), driven by emissions of acrylic acid from process vents. No one is exposed to TOSHI levels greater than 1 due to emissions from this source category.

The results of the inhalation risk modeling using whole facility emissions data, as shown in Table 3 of this preamble, indicate that the estimated MIR is 20-in-1 million with emissions of hydrazine from sources subject to other standards driving the risk. These include 40 CFR part 63 subparts FFFF (Miscellaneous Organic Chemicals Manufacturing NESHAP), H (Hazardous Organic NESHAP), and EEEE (Organic Liquids Distribution), which are not part of this source category. The total estimated whole facility cancer incidence is 0.006 excess cancer cases per year. Approximately 50,100 people are estimated to have cancer risks greater than or equal to 1-in-1 million. The estimated maximum chronic noncancer TOSHI is 2 (for the neurological target organ), driven by emissions of hydrogen cyanide from non-MCM source category emissions from carbon fiber production. Approximately 80 people are estimated to be exposed to noncancer hazard index (HI) levels greater than 1.

As shown in Table 3 of this preamble, for source category emissions, the highest acute HQ based on the reasonable worst-case scenario is 2, based on the REL for glycol ethers. This is the highest HQ that is outside facility boundaries. One facility is estimated to have an HQ greater than 1 based on the REL, which is the only available benchmark for glycol ethers.

Potential multipathway health risks under a fisher and farmer/gardener scenario were identified using a three-tier screening assessment of the HAP known to be persistent and bio-accumulative in the environment (PB-HAP) emitted by facilities in this source category. For carcinogenic PB-HAP, one facility emits arsenic compounds, while two facilities emit polycyclic organic matter (POM). None of these emissions exceed a Tier 1 cancer screening value for arsenic or POM. For noncarcinogenic PB-HAP, one facility emits cadmium compounds and one facility emits mercury compounds. None of these emissions exceed a Tier 1 noncancer screening value for cadmium or mercury. Further analyses (*i.e.*, Tier 2 or 3 screens) were not performed. For lead compounds, we did not estimate any exceedances of the lead National Ambient Air Quality Standards (NAAQS).

A screening-level evaluation of the potential adverse environmental risk associated with emissions of the PB-HAP listed above, plus acid gases (hydrogen chloride is the only reported acid gas), indicated that no ecological benchmarks were exceeded. For lead compounds, we did not estimate any exceedances of the secondary lead NAAQS.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the residual risks from the MCM source category are acceptable (section IV.B.1 of the proposal preamble, 84 FR 46625, September 4, 2019).

We then considered whether 40 CFR part 63, subpart HHHHH, provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. Related to risk, the baseline risks were low, and regardless of the availability of further control options, little risk reduction could be realized. As discussed further in section IV.B of this preamble, the only developments identified in the technology review were control options for inorganic HAP and organic HAP from process vessels. Because the baseline risks are being driven by inorganic HAP from process vessels, we evaluated a control option for inorganic HAP emissions from process vessels located at MCM facilities that would be similar to those included in 40 CFR part 63, subpart CCCCCC, the NESHAP for Area Sources for Paints and Allied Products Manufacturing. Additionally, we evaluated increasing the control efficiency requirements for organic HAP emissions from process vessels. The process vessel options did not result in a decrease to the MIR or to the maximum chronic noncancer TOSHI because the MIR facility already had controls in place. However, there was a reduction seen in the population exposed to a cancer risk of 1-in-1 million from 3,700 to 1,900 due to emissions reductions at other facilities. But, as described in section IV.C of the proposal preamble (84 FR 46626, September 4, 2019), we determined that these options were not cost effective. Therefore, given the low baseline risks and lack of options for further risk reductions, we proposed that additional

emission controls for this source category are not necessary to provide an ample margin of safety (see section IV.B.2 of the proposal preamble, 84 FR 46626, September 4, 2019).

2. How did the risk review change for the MCM Source Category?

We have not changed any aspect of the risk assessment for the MCM source category as a result of public comments received on the September 4, 2019, proposal.

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

We received comments in support of and against the proposed residual risk review and our determination is that no revisions were warranted under CAA section 112(f)(2) for the source category. Generally, the comments that were not supportive of the determination from the risk reviews suggested changes to the underlying risk assessment methodology. For example, one commenter stated that the EPA should lower the acceptability benchmark so that risks below 100-in-1 million are unacceptable, include emissions outside of the source category assessed, and assume that pollutants with noncancer health risks have no safe level of exposure. After review of all the comments received, we determined that no changes are needed to the risk assessment. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing*, available in the docket for this rulemaking.

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

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using “a two-step standard-setting approach, with an analytical first step to determine an ‘acceptable risk’ that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on the maximum individual risk (MIR) of approximately 1-in-10 thousand” (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability

determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule, we determined that the risks from the MCM source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, we are not revising this subpart to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).

#### *B. Technology Review for the MCM Source Category*

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

Sources of HAP emissions regulated by the MCM NESHAP are process vessels, storage tanks, transfer racks, equipment leaks, wastewater streams, and heat exchange systems. MCM processes occur as batch operations, which involve intermittent or discontinuous feed of raw materials into equipment, and generally involve emptying of the equipment after the operation ceases and prior to beginning a new operation.

For process vessels, we evaluated two options that could be potentially considered technology developments under CAA section 112(d)(6). In the first option, we considered increasing the control efficiency requirement for process vessels at existing sources to match the control requirement for new sources, which would increase the control efficiency for organic HAP with a vapor pressure equal to or greater than 0.6 kilopascals from 75 percent to 95 percent.

We consider this option to be a new development because several facilities have controlled all process vessels with thermal oxidizers to comply with the NESHAP.

We estimated the costs of installing a thermal oxidizer on the six plants in the MCM source category that currently do not have a thermal oxidizer installed on process vessels. The costs were estimated using the *EPA Air Pollution Control Cost Manual* cost spreadsheet for thermal oxidizers<sup>3</sup> and the process vent flow rate from the National Emissions Inventory (NEI) or the facility operating permit. The estimated cost effectiveness for these facilities ranged from \$20,000 per ton HAP removed to \$150,000 per ton HAP removed.

The second option for process vessels that we considered was to require controls to limit particulate matter (PM) HAP emissions when dry materials (*e.g.*, pigments) containing inorganic HAP are added to the process vessel. We considered provisions that would be similar to those included in 40 CFR part 63, subpart CCCCCC, the NESHAP for Area Sources for Paints and Allied Products Manufacturing. This option would reflect the fact that several facilities subject to 40 CFR part 63, subpart HHHHH, have process vessels controlled with fabric filters when dry materials are being added.

We estimated costs for both a fabric filter baghouse and a cartridge filter type of particulate control with a flow rate of 1,000 cubic feet per minute, plus 150 feet of flexible duct to capture the fugitive PM when dry matter is being added to the mixing vessel. The estimated cost effectiveness for this option ranged from \$310,000 to \$2,100,000 per ton of particulate HAP reduced. We also evaluated whether pigments could be added in a wetted or paste form, but not all pigments are available or can be used in wetted or paste form.

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<sup>3</sup> <https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution>.

The EPA did not find the control technology development options considered for process vessels in this technology review to be cost effective or, in some cases, technologically feasible. Consequently, the EPA proposed that it is not necessary to amend the standards for process vessels under the technology review.

The MCM NESHAP requires existing sources to comply with the equipment leaks provisions in 40 CFR part 63, subpart R, NESHAP for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations); subpart TT, NESHAP for Equipment Leaks, Control Level 1; or subpart UU, NESHAP for Equipment Leaks, Control Level 2. New sources must comply with the provisions of subpart UU or TT. Based on developments in other similar source categories, we identified as a technology alternative to the current standard a more stringent provision for existing sources that would eliminate sensory monitoring and require instrument monitoring with lower leak definitions than specified in 40 CFR part 63, subpart TT. For this alternative, we estimated the incremental emission reductions and cost effectiveness of employing instrument monitoring (EPA Method 21) with an equipment leak defined as instrument readings of 500 parts per million by volume (ppmv) for valves, 2,000 ppmv for pumps, and 500 ppmv for connectors. We estimated the costs of requiring instrument monitoring with more stringent leak definitions for four model plants with 25, 50, 100, or 200 process vessels. The estimated cost effectiveness for these model plants ranged from \$107,000 per ton HAP removed to \$22,000 per ton HAP removed for the smallest to largest model plant, and these values are higher than organic HAP cost-effectiveness values that we historically have considered reasonable. The EPA did not find the leak detection instrument monitoring option that was evaluated to be cost effective. Consequently, the EPA proposed that it was not necessary to amend the standards for equipment leaks under the technology review.

The MCM NESHAP regulates wastewater streams that contain total partially soluble and soluble HAP at an annual average concentration greater than or equal to 4,000 ppmw and load greater than or equal to 750 lb/yr at existing sources, or that contain greater than or equal to 1,600 ppmw and any partially soluble and soluble HAP load at new sources. Wastewater tanks used to store regulated wastewater streams must have a fixed roof, which may have openings necessary for proper venting of the tank, such as a pressure/vacuum vent or j-pipe vent. Regulated wastewater streams must be conveyed using hard piping and treated as a hazardous waste in accordance with 40 CFR part 264, 265, or 266 either on-site or off-site. Alternatively, if the wastewater contains less than 50 ppmw of partially soluble HAP, it may be treated in an enhanced biological treatment system that is located either on-site or off-site.

Because our technology review identified no developments in practices, processes, or controls for reducing wastewater emissions at MCM facilities, we evaluated developments in other industries with wastewater streams that contain organic HAP. We reviewed three options that were considered in other industry technology reviews for their applicability to the MCM wastewater streams. These options were:

- (1) Requiring wastewater drain and tank controls at facilities.
- (2) Requiring specific performance parameters (minimum fraction biodegraded,  $f_{bio}$ ) for an enhanced biological unit beyond those required in the Benzene NESHAP.
- (3) Requiring wastewater streams with a volatile organic compound (VOC) content of 750 ppmw or higher to be treated by steam stripping prior to any other treatment process for facilities with high organic loading rates (*i.e.*, facilities with total annualized benzene quantity of 10 megagrams per year or more).

The EPA did not find any of the three wastewater stream control options evaluated to be cost effective. Consequently, the EPA proposed that it was not necessary to amend the standards for wastewater streams under the technology review.

The EPA did not identify in our technology review any developments in practices, processes, and control technologies for storage tanks, transfer operations (*i.e.*, bulk loading) of coating products, or heat exchange systems that were not already considered in the development of the original MACT.

Further explanation of the assumptions and methodologies for all options evaluated are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for the Miscellaneous Coating Manufacturing Source Category*, available in the docket to this action.

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

We are making no changes to the conclusions of the technology review and are finalizing the results of the technology review for the MCM source category as proposed.

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

*Comment:* Some of the commenters supported the EPA's proposed determination that no changes to the MCM NESHAP were needed based on the technology review.

However, one commenter argued that the standard should be strengthened to reduce HAP emissions. The commenter argued that the EPA should establish a standard of zero allowed leaks to prohibit all uncontrolled releases, or to establish more stringent standards based on the latest advancements in LDAR. The commenter also argued that the EPA should establish more stringent standards for HAP metals based on the use of fabric filters when dry materials are added to process vessels, as in the Paints and Allied Products Manufacturing rule for area sources. Finally, the commenter argued that the EPA should establish standards for storage

vessels based on internal floating roofs (IFR) or the use of closed vent systems and recovery or destruction devices. The commenter argued that CAA section 112(d)(6) does not allow the EPA to use cost as a factor in deciding whether more stringent standards should be adopted.

*Response:* In this technology review, we specifically looked for developments in practices, processes, and controls, including improvements in previously considered control technologies, and concluded there were no cost-effective developments applicable to this source category. The comment suggesting additional or more stringent controls be imposed has not provided data to support a revision to the proposed technology review; for this reason, we are adopting no changes to the NESHAP under the technology review.

With respect to the role of cost in our decisions under the technology review, we note that courts have not required the EPA to demonstrate that a technology is “cost-prohibitive” in order not to require adopting a new technology under CAA section 112(d)(6); a simple finding that a control is not cost effective is enough. See *Association of Battery Recyclers, et al. v. EPA, et al.*, 716 F.3d 667, 673-74 (D.C. Cir. 2015) (approving the EPA’s consideration of cost as a factor in its 42 U.S.C. 7412(d)(6) decision-making and the EPA’s reliance on cost effectiveness as a factor in its standard-setting).

The option to require controls to limit PM HAP emissions from process vessels in which dry materials containing inorganic HAP are added to the process vessel was considered during the proposal for this rule. As stated in the MCM technology review memorandum, *Clean Air Act Section 112(d)(6) Technology Review for Process Vessels, Storage Tanks, Equipment Leaks, Wastewater Streams, Transfer Operations, and Heat Exchange Systems Located in the Miscellaneous Coating Manufacturing Source Category* (Docket Item No. EPA-HQ-OAR-2018-0747-0033), we reviewed the permits for the 12 facilities subject to 40 CFR part 63, subpart

HHHHH, for which the 2014 NEI included emissions of particulate HAP and found that the permits for all but one of the facilities confirmed that some type of particulate control was already fitted on the process vessels. These controls included baghouse fabric filters, cartridge filters, and wet scrubbers, and we proposed that it was not cost effective to require any additional PM controls.

Also, as described in the MCM technology review memorandum, we evaluated installing an IFR, external floating roof, closed vent system to an emission control device, vapor balancing, and considered maximum total vapor pressure thresholds; however, we did not identify any control technology development options for storage tanks to be cost effective.

Finally, in the MCM technology review memorandum, we concluded that more stringent leak definitions for pumps, valves, and connectors using EPA Method 21 equipment leak monitoring were not cost effective for this source category.

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

For the reasons explained in the preamble to the proposed rule (84 FR 46626, September 4, 2019) and in the comment responses above in section IV.B.3 of this preamble, and the response to comment document, we are making no changes and are finalizing the results of the technology review as proposed.

### *C. SSM Provisions*

#### 1. What did we propose?

In the September 4, 2019, action, we proposed amendments to the MCM NESHAP to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 46629, September 4, 2019).

We proposed amendments to account for instances where 40 CFR part 63, subpart HHHHH, cross-references other subparts that contain SSM provisions. We proposed 40 CFR 63.8000(f) that lists the referenced provisions, including individual paragraphs or phrases, in subparts SS, TT, and UU of 40 CFR part 63 that contain references to SSM periods that will no longer apply after the compliance date for the final amendments as a result of the final SSM revisions.

Because we proposed to remove the SSM provisions and require compliance at all times, we proposed to amend 40 CFR 63.8000(c) to account for bypass periods in determining compliance with the emission percent reduction provisions in Table 1 to 40 CFR part 63, subpart HHHHH, for process vessels. These amendments apply to process vessels with closed vent systems and add-on controls that contain bypass lines that could divert a vent stream to the atmosphere. We proposed that owners or operators must measure and record during each semiannual compliance period the hours that the control device was bypassed and the source's total operating hours. They must then use the overall control efficiency required in Table 1, the total operating hours, and the control efficiency of the control device to determine the allowable bypass hours during the semiannual compliance period using proposed Equation 1 in 40 CFR 63.8005(h). These changes are required because SSM periods that may involve bypassing of the control device cannot be excluded and must now be included in determining compliance.

Because we proposed to remove the SSM provisions and require compliance at all times, we proposed to revise 40 CFR 63.8000(b)(2) so that opening of a safety device to avoid unsafe conditions is considered a deviation, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h). We also proposed to revise 40 CFR 63.8080(c), which is the provision to keep a record of each time a safety device is opened, to add

additional recordkeeping provisions consistent with those for other deviations. As a result of these proposed changes, the opening of a safety device would be considered a deviation from the emission limits for sources using closed vent systems and add-on control devices to comply with the emission limitations in 40 CFR part 63, subpart HHHHH, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h). In the event a safety device is opened, the owners or operators would be required to comply with the general duty provision in 40 CFR 63.8000(a) to minimize emissions at all times and to report and record information related to deviations as specified in 40 CFR 63.8075 and 63.8080, respectively, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h).

## 2. What changed since proposal?

We are finalizing the SSM provisions as proposed with no changes (84 FR 46629, September 4, 2019).

We are also revising the bypass provisions to allow the use of bypass valve or damper position indicators to determine the time and duration of possible bypasses as an alternative to the proposed requirement to use a flow indicator. In the final rule, we are providing the following options to comply with the bypass monitoring requirements: (1) use a flow indicator that provides a continuous reading of flow and no flow, (2) use valve position indicator or bypass damper indicator that provides a continuous reading of damper position, or (3) secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. For flow indicators, facilities will have to perform a flow meter verification check annually. The annual verification check must be performed for at least two points, one at the instrument's zero and the other at the instrument's span. For valve position indicators, facilities must ensure that

any bypass line valve or damper is in the closed position through continuous monitoring of valve position when the control device is in operation. The monitoring system must be inspected semiannually to verify that the monitor will accurately indicate valve position. For car-seal or lock-and-key type configurations, facilities must ensure that any seal or closure mechanism is maintained in the non-diverting position and the vent stream is not diverted through a bypass line. The visual inspections on the seal or closure mechanism must be completed at least once every month.

We are finalizing the provisions related to safety device openings in 40 CFR 63.8000(b)(2) and 63.8080(c) as proposed with no changes (84 FR 46632, September 4, 2019).

We have corrected an error in the proposed amendatory language at 40 CFR 63.7995(e) (84 FR 46640). In the proposal, we indicated that sources that began construction or reconstruction on or before the publication of the final rule in the **Federal Register** are given 3 years to comply with the provisions listed in 40 CFR 63.7995(e)(1) through (5). That was incorrect and the text should have indicated that those that began construction or reconstruction on or before the proposal publication date of September 4, 2019, have 3 years to comply with the provisions listed in 40 CFR 63.7995(e)(1) to (5).

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

*Comment:* One commenter requested specific SSM provisions for PRDs, flares, and maintenance venting. The commenter requested that the opening of a safety device be allowed if it is a PRD meeting the requirements in 40 CFR part 63, subpart TT (40 CFR 63.1010 or 63.1011) or UU (40 CFR 63.1029 or 63.1030), and suggested certain work practices are followed that were specified by the commenter. The commenter also requested that certain types of safety devices and PRDs be exempt from the requirements for safety devices.

The commenter requested that the definition of “process vessel vent” be revised to exclude “maintenance vents after the equipment has been washed or purged in accordance with site maintenance practices to minimize, to the extent possible, emissions of HAP.” The commenter also suggested as a second option, if the EPA decides to regulate HAP emissions from maintenance activities associated with process vessel vents, that the EPA should add work practice standards in place of emission limitations, consistent with the language in the Petroleum Refinery MACT, 40 CFR 63.643(c), and the proposed changes to the Ethylene Production MACT, 40 CFR 63.1103(e)(5).

The commenter requested that, consistent with the Column 3 note on 40 CFR 63.6(h)(2) through (9) in Table 10 to 40 CFR part 63, subpart HHHHH, the EPA should clarify the “Yes” language on 40 CFR 63.6(h)(1) by adding the italicized language as follows: “Yes, before the compliance date specified in §63.7995(e), *specifically for flares subject to Method 22 observations that are required as part of a compliance assessment*. No, on or after the compliance date specified in §63.7995(e).”

*Response:* We are making none of the suggested changes because they are not necessary. There is a low likelihood of PRDs or flares being used in this source category because operations are conducted at ambient conditions (*i.e.*, process overpressures are less likely because operations are conducted at lower temperature and pressures) and facilities typically comply with the standards using thermal oxidizers or condensers. Additionally, the bypass provisions apply to all SSM events, including events associated with maintenance venting, and no examples were provided to the EPA to support adding provisions for maintenance venting in the MCM source category.

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

We evaluated all comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule, we determined that these amendments to the SSM provisions for the MCM NESHAP remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the amendments we are finalizing for SSM provisions is in the preamble to the proposed rule (84 FR 46629, September 4, 2019). Therefore, we are finalizing our approach for the SSM provisions as proposed.

#### *D. Electronic Reporting Provisions*

##### 1. What did we propose?

In the September 4, 2019, document, we proposed to require owners or operators of MCM sources to submit electronic copies of notifications, reports, and performance tests through the EPA's CDX, using the CEDRI. These include the initial notifications required in 40 CFR 63.9(b) and 63.8070(b), the NOCS required in 40 CFR 63.9(h) and 63.8075(d), the performance test report required in 40 CFR 63.8075(f), the performance evaluation report required in 40 CFR 63.8075(g), and the semiannual reports required in 40 CFR 63.8075(b) and (c). A description of the electronic 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*, August 8, 2018, available in the docket for this rulemaking. The proposed rule requirements would replace the current rule requirements to submit the notifications and reports to the Administrator at the appropriate address listed in 40 CFR 63.13. The proposed rule requirement would not affect submittals required by state air agencies. The proposed compliance schedule language in 40 CFR 63.8075(h) for submission of

initial compliance reports, NOCS reports, and compliance reports would have provided 3 years after the final rule is published to begin electronic reporting.

2. What changed since proposal?

We are finalizing the electronic reporting provisions as proposed with no changes (84 FR 46632, September 4, 2019).

We are revising the proposed electronic reporting template to incorporate changes identified in the public comments and described completely in the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing*, available in the docket for this rulemaking.

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

*Comment:* The EPA received comments that identified several corrections and additions to the draft CEDRI template and described them in detail in their comment letter. These changes to the draft CEDRI template are described completely in the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing*, available in the docket for this rulemaking.

*Response:* The EPA has evaluated these comments and has made the appropriate corrections to the CEDRI template as described in *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing*, available in the docket for this rulemaking.

4. What is the rationale for our final approach for the electronic reporting provisions?

For the reasons explained in the preamble to the proposed rules (84 FR 46632, September 4, 2019), and in the comment responses above in section IV.D.3 of this preamble, and in the response to comment document, we are finalizing the electronic reporting provisions for the

MCM NESHAP, as proposed. We are revising the CEDRI reporting template as appropriate to incorporate the corrections and additions identified in the public comments.

#### *E. Other Technical Amendments*

##### 1. What did we propose?

The EPA proposed to amend 40 CFR 63.8055(b)(4) to remove reference to paragraph (d)(4) of the OSHA's Hazard Communication standard, which dealt with OSHA-defined carcinogens. We proposed to replace these references to carcinogens in 29 CFR 1910.1200(d)(4) with a list (in proposed new Table 11 to 40 CFR part 63, subpart HHHHH) of those organic HAP that must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. We also proposed additional technical and editorial corrections that were listed in Table 4 of the proposal preamble.

##### 2. What changed since proposal?

We are finalizing the technical amendments as proposed with no changes (84 FR 46633, September 4, 2019).

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

We received comments supporting the addition of Table 11 to 40 CFR part 63, subpart HHHHH. We also received comments indicating several additional technical and editorial corrections that are detailed in the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing*, available in the docket for this rulemaking.

##### 4. What is the rationale for our final approach for the other technical amendments?

For the reasons explained in the preamble to the proposed rules (84 FR 46633, September 4, 2019), in the comment responses above in section IV.E.3 of this preamble, and in the response

to comment document, we are finalizing the other technical amendments for the MCM NESHAP, as proposed. The proposed technical amendments, to include the new Table 11, are being finalized in this action. The editorial corrections proposed in Table 4 of the proposal preamble are being finalized, with edits based on responses from commenters. These edits are shown in Table 2 of this preamble.

#### *F. Ongoing Emissions Compliance Demonstrations*

##### 1. What did we propose?

We proposed to require owners or operators of facilities complying with the standards using a closed vent system and add-on controls to control emissions to perform periodic testing to confirm the performance of the add-on control device. We proposed to require owners or operators that are not already on a 5-year testing schedule to conduct the first of the periodic performance tests within 3 years of the effective date of the revised standards. Afterward, the owners or operators would conduct periodic testing before they renew their operating permits, but no longer than 5 years following the previous performance test. Additionally, owners or operators of facilities that have already tested as a condition of their permit within the last 2 years before the effective date would be permitted to maintain their current 5-year schedule and not be required to move up the date of the next test to the 3-year date specified above.

##### 2. What changed since proposal?

We are finalizing the periodic performance testing and ongoing compliance demonstration provisions as proposed with no changes (84 FR 46634, September 4, 2019).

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

*Comment:* The EPA received comments that performance testing should not be required except when the facility has a change in operations, or where the change is not considered to be

within the previously established worst-case conditions as specified in 40 CFR

63.8005(d)(1)(iv). The EPA also received comments that periodic performance testing should only be required for thermal oxidizers and should not be required for carbon adsorbers or for condensers, and that the EPA should not eliminate design evaluations of small control devices. See 40 CFR 63.8000(d)(2). The commenters argued that testing small control devices is often impractical (for example, once-through carbon adsorption) and needless where the performance (such as for condensers) can be predicted with a high degree of certainty.

*Response:* We disagree that performance tests should only be required when the facility has a change in operations. As explained in the preamble to the proposed rule, periodic performance tests help identify potential degradation of the add-on control device over time and ensure the control device remains effective, reducing the potential for acute emissions episodes or noncompliance. Also as explained in the preamble to the proposed rule, many facilities using add-on controls to demonstrate compliance with the NESHAP are currently required to conduct performance tests every 5 years as a condition for renewing their title V operating permit. The requirement to conduct testing every 5 years also eliminates uncertainty of determining whether a change in facility operations should trigger a new performance test. Further, removing the design evaluation for small control devices will not affect facilities using condensers because they may still comply by meeting the condenser outlet temperature requirements specified in Table 1 to 40 CFR part 63, subpart HHHHH. We do not expect many facilities to be controlling with carbon adsorbers, and, therefore, we are not exempting carbon adsorbers from these requirements.

The comments and responses on the proposed performance testing requirements are detailed in the *Summary of Public Comments and Responses for Risk and Technology Review for Miscellaneous Coating Manufacturing*, available in the docket for this rulemaking.

4. What is the rationale for our final approach for the ongoing compliance demonstrations?

For the reasons explained in the preamble to the proposed rules (84 FR 46634, September 4, 2019) and in the comment responses above in section IV.F.3 of this preamble and the response to comment document, we are finalizing the periodic testing provisions for the MCM NESHAP, as proposed.

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

*A. What are the affected sources?*

Currently, 43 major sources subject to the MCM NESHAP are operating in the United States. The affected source under the NESHAP is the facility-wide collection of equipment used to manufacture coatings and includes all process vessels; storage tanks for feedstocks and products; components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; wastewater tanks; transfer racks; and cleaning operations. A coating is defined as material such as paint, ink, or adhesive that is intended to be applied to a substrate and consists of a mixture of resins, pigments, solvents, and/or other additives, where the material is produced by a manufacturing operation where materials are blended, mixed, diluted, or otherwise formulated.

*B. What are the air quality impacts?*

At the current level of control, estimated emissions of volatile organic HAP from the MCM source category are approximately 405 tpy.

The final amendments require that all 43 major sources in the MCM source category comply with the relevant emission standards at all times, including periods of SSM. We were unable to quantify the emissions that occur during periods of SSM or the specific emissions reductions that will occur as a result of this action. However, eliminating the SSM exemption has the potential to reduce emissions by requiring facilities to meet the applicable standard during SSM periods.

Indirect or secondary air emissions impacts are impacts that will result from the increased electricity usage associated with the operation of control devices (*e.g.*, increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. The amendments will have no effect on the energy needs of the affected facilities and will, therefore, have no indirect or secondary air emissions impacts.

### *C. What are the cost impacts?*

We estimate that to comply with the final amendments, each facility in the MCM source category will experience increased reporting and recordkeeping costs. The recordkeeping and reporting costs are presented in section VI.C of this preamble. The costs include time to read and understand the rule amendments. Costs associated with elimination of the SSM exemptions were estimated as part of the reporting and recordkeeping costs and include time for re-evaluating previously developed SSM record systems. Costs associated with the provision to electronically submit notifications and semi-annual compliance reports using CEDRI were estimated as part of

the reporting and recordkeeping costs and include time for becoming familiar with CEDRI and the reporting template for semi-annual compliance reports.

We are also finalizing a provision for performance testing no less frequently than every 5 years for sources in the MCM source category using add-on controls to demonstrate compliance. We estimate that 12 of the facilities subject to the MCM NESHAP and using add-on control devices will incur costs to conduct control device performance testing because they are not required by their permits to conduct testing every 5 years. This total does not include facilities in the MCM source category that have add-on controls and are currently required to perform periodic performance testing as a condition of their state operating permit. The cost for a facility to conduct a destruction or removal efficiency performance test using EPA Method 25 or 25A is estimated to be about \$19,000. The total cost for all 12 facilities to test their add-on control devices in a single year, plus one facility completing a retest to account for 5 percent of control devices failing to pass the first test, will be \$247,000. The total annualized testing cost, including retests, is approximately \$57,000 per year at an interest rate of 5.25 percent and an additional \$6,000 in reporting costs per facility in the year in which the test occurs for the MCM source category. For further information on the potential costs, see the cost tables in the memoranda, *Estimated Costs/Impacts 40 CFR Part 63 Subpart HHHHH Monitoring Review Revisions*, May 2019, and the *Economic Impact and Small Business Screening Assessments for Proposed Amendments to National Emission Standards for the Hazardous Air Pollutants for Miscellaneous Coating Manufacturing Facilities (Subpart HHHHH)*, in the MCM Docket.

*D. What are the economic impacts?*

The economic impact analysis is designed to inform decision-makers about the potential economic consequences of a regulatory action. For the final rule, the EPA estimated the cost of

becoming familiar with the rule and re-evaluating previously developed SSM record systems and performing periodic emissions testing at certain facilities with add-on controls that are not already required to perform testing. To assess the maximum potential impact, the largest cost expected to be experienced in any 1 year is compared to the total sales for the ultimate owner of the affected facilities to estimate the total burden for each facility.

For the final revisions to the MCM NESHAP, the 2019 equivalent annualized value (in 2018\$) of the costs over the period 2020-2026 is \$66,000, assuming a 3-percent discount rate and \$73,000 assuming a 7-percent discount rate. The 43 affected facilities are owned by 27 different parent companies, and the total costs associated with the final amendments range from 0.000005 to 0.025 percent of annual sales revenue per ultimate owner. These costs 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.

The EPA also prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. Two of the facilities potentially affected by the final revisions to the MCM NESHAP are small entities. However, the costs associated with the final amendments for these two affected small entities range from 0.002 to 0.025 percent of annual sales revenues per ultimate owner. Therefore, there are no significant economic impacts on a substantial number of small entities from these final amendments.

More information and details of this analysis are provided in the technical document titled *Economic Impact and Small Business Screening Assessments for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing (Subpart HHHHH)*, available in the MCM Docket.

*E. What are the benefits?*

As stated above in section V.B of this preamble, we were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption.

Because these final amendments are not considered economically significant, as defined by Executive Order 12866, we did not monetize the benefits of reducing these emissions. This does not mean that there are no benefits associated with the potential reduction in volatile organic HAP from this rule.

*F. What analysis of environmental justice did we conduct?*

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

To examine the potential for any environmental justice issues that might be associated with the source category, during the proposal, we performed a demographic analysis, which is an assessment of risk to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risk from the MCM source category across different demographic groups within the populations living near facilities.

The results of the demographic analysis are summarized in Table 4 of this preamble. These results, for various demographic groups, are based on the estimated risk from actual

emissions levels for the population living within 50 km of the facilities. These results have not changed since the proposal.

TABLE 4. MCM DEMOGRAPHIC RISK ANALYSIS RESULTS

|                                                        | Nationwide  | Population with<br>Cancer Risk at or<br>Above 1-in-1 Million<br>Due to MCM | Population with<br>Chronic HI Above 1<br>Due to MCM |
|--------------------------------------------------------|-------------|----------------------------------------------------------------------------|-----------------------------------------------------|
| Total Population                                       | 371,746,049 | 3,665                                                                      | 0                                                   |
| White and Minority by Percent                          |             |                                                                            |                                                     |
| White                                                  | 62          | 64                                                                         | 0                                                   |
| Minority                                               | 38          | 36                                                                         | 0                                                   |
| Minority by Percent                                    |             |                                                                            |                                                     |
| African American                                       | 12          | 32                                                                         | 0                                                   |
| Native American                                        | 0.8         | 0.05                                                                       | 0                                                   |
| Hispanic or Latino<br>(includes White and<br>nonwhite) | 18          | 2                                                                          | 0                                                   |
| Other and<br>Multiracial                               | 7           | 2                                                                          | 0                                                   |
| Income by Percent                                      |             |                                                                            |                                                     |
| Below Poverty<br>Level                                 | 14          | 29                                                                         | 0                                                   |
| Above Poverty<br>Level                                 | 86          | 71                                                                         | 0                                                   |
| Education by Percent                                   |             |                                                                            |                                                     |
| Over 25 and<br>without High<br>School Diploma          | 14          | 19                                                                         | 0                                                   |
| Over 25 and with a<br>High School<br>Diploma           | 86          | 81                                                                         | 0                                                   |
| Linguistically Isolated by Percent                     |             |                                                                            |                                                     |
| Linguistically<br>Isolated                             | 6           | 1                                                                          | 0                                                   |

The results of the MCM source category demographic analysis indicate that emissions from the source category expose approximately 3,700 people to a cancer risk at or above 1-in-1 million and zero people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in each demographic group (except for African American, Below Poverty Level,

Hispanic or Latino, and Above Poverty Level) are similar to (within 5 percent of) their respective nationwide percentages. The African American and Below Poverty Level demographic groups are greater than their respective nationwide percentages, while the Hispanic or Latino (includes White and nonwhite) and Above Poverty Level are lower than their respective nationwide percentages.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review – Analysis of Demographic Factors for Populations Living Near Miscellaneous Coating Manufacturing Facilities*, available in the docket for this rulemaking.

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

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action’s health and risk assessments are summarized in section IV.A of this preamble and are further documented in the *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule*, available in the docket for this rulemaking.

## **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 Orders 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. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

*C. Paperwork Reduction Act (PRA)*

The information collection activities in this final rule will be submitted for approval to OMB under the PRA. The information collection request (ICR) document that the EPA prepared has been assigned EPA ICR number 2115.07. You can find a copy of the ICR in the MCM Docket (Docket ID No. EPA-HQ-OAR-2018-0747), and it is briefly summarized here.

The EPA is finalizing revisions to the SSM provisions of the rule, requiring periodic testing of control devices, and requiring the use of electronic data reporting for future performance test data submittals, notifications, and reports. This information is being collected to assure compliance with 40 CFR part 63, subpart HHHHH.

*Respondents/affected entities:* Facilities manufacturing surface coatings.

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

*Estimated number of respondents:* In the 3 years after the amendments are final, approximately 43 respondents per year will be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

*Frequency of response:* The total number of responses in year 1 is 175, in year 2 is 46, and in year 3 is 85.

*Total estimated burden:* The average annual burden of the final amendments to the 43 MCM facilities over the 3 years is estimated to be 565 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 116 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* The average annual cost of the final rule amendments to the MCM facilities is \$65,000 in labor costs in the first 3 years after the amendments are final. The average annual capital and operation and maintenance costs are \$82,000. The total average annual Agency cost of the proposed amendments over the first 3 years after the amendments are final is estimated to be \$5,500.

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.

#### *D. 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 Agency has determined that two of the facilities potentially affected by the final revisions to the MCM NESHAP are small entities and may experience an impact of 0.002 to 0.025 percent of annual sales revenues per ultimate owner. Details of this analysis are presented in section V.D of this preamble and additional detail is provided in the economic impact memoranda associated with this action. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

#### *E. 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.

*F. 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.

*G. 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 any of the industries that will be affected by this action (MCM). Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A, III.C, and IV.A of this preamble and are further documented in the *Miscellaneous Coating Manufacturing Risk Assessment Report*, in the MCM Docket.

*I. 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.

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

This action involves technical standards. Therefore, the EPA conducted searches for the MCM NESHAP 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. We conducted searches for EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 18, 21, 22, 24, 25, 25A, 25D, 26, 26A, and 29 of 40 CFR part 60, appendix A; 301, 305, 311, 316, and 320 of 40 CFR part 63, appendix A; 624, 625, 1624, 1625, 1666, and 1671 of 40 CFR part 136, appendix A; and 8260, 8260B (SW-846), 8270, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846 third edition. 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 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 reference methods. The EPA may reconsider determinations of impracticality when additional information is available for particular VCS.

No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 21, 22, 25D, 305, 316, 625, 1624, 1625, 1666, 1671, 8260, 8260B (SW-846), and 8270. The following VCS were identified as acceptable alternatives to the EPA test methods for the purpose of this rule.

The EPA is including in the final rule the VCS ANSI/ASME PTC 19-10-1981 Part 10 (2010), "Flue and Exhaust Gas Analyses," as an acceptable alternative to EPA Method 3B for the manual procedures only and not the instrumental procedures. This method is used to quantify

the oxygen and carbon dioxide concentration in exhaust from stationary combustion sources, and is available at the American National Standards Institute, 1899 L Street, NW, 11th floor, Washington, DC 20036 and the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016-5990. See <https://www.ansi.org> and <https://www.asme.org>.

Additionally, the EPA is including in the final rule the VCS ASTM D6420-18, “Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry,” as an acceptable alternative to EPA Method 18 with the following caveats. This ASTM procedure employs a direct interface gas chromatograph/mass spectrometer (GCMS) to identify and quantify the 36 volatile organic compounds (or sub-set of these compounds) listed in the method, and has been approved by the EPA as an 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. ASTM D6420-18 should not be used for methane and ethane because the atomic mass is less than 35; and ASTM D6420 should never be specified as a total VOC method.

The EPA is including in the final rule the VCS ASTM D2369-10(2015) el, “Test Method for Volatile Content of Coatings,” ASTM D2697-03 (2014), “Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings,” and ASTM D3960-98, “Standard Practice for Determining VOC Content of Paints and Related Coatings,” as acceptable alternatives to EPA Method 24 for determining the weight-percent HAP content of coatings, by determining the volatile matter or VOC content of coatings and use that value as a substitute for the mass fraction of HAP, for demonstrating compliance with the weight-percent HAP limit alternative in 40 CFR 63.8055. ASTM D2369-10(2015) el is used for calculating the weight percent volatile organic content in coatings and the weight percent solids content. ASTM D2697-03 (2014) measures the

volume of dry coating solids in a given volume of liquid coating. ASTM D3960-98 is used for determining the VOC content of paints and related coatings and for calculating the VOC content expressed as the mass of VOC: (1) per unit volume of coating less water and exempt volatile compounds, and (2) per unit volume of coating solids and (3) per unit mass of coating solids.

In addition, the EPA is including in the final rule-the VCS ASTM D6348-12e1, “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. ASTM D6348-12e1 identifies and measures the concentration of organic compounds in an exhaust stream. The test plan preparation and implementation in the Annexes to ASTM D6348-12e1, Sections A1 through A8 are mandatory; and 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  $70\% \leq R \leq 130\%$ . 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:

$$\text{Reported Results} = (\text{Measured Concentration in the Stack} \times 100) / \% R.$$

The five ASTM methods (ASTM D2369-10(2015) e1, ASTM D2697-03, ASTM D3960-98, ASTM D6348-12e1, and ASTM D6420-18) are available at ASTM International, 1850 M Street, NW, Suite 1030, Washington, DC 20036. See <https://www.astm.org/>.

The EPA is including in the final rule the VCS CARB Method 310, “Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products,” as an acceptable alternative to EPA Method 311 for determining the weight-percent HAP content of coatings, by determining the mass fraction of volatile matter and use that value as a substitute for the mass fraction of HAP, for demonstrating compliance with the weight-percent HAP limit alternative in 40 CFR 63.8055. This method is used to determine the weight percent of VOC in consumer products and ROC in aerosol coating products and is available from the California Air Resources Board (CARB), 1001 I Street, Sacramento, CA 95814. See <https://ww2.arb.ca.gov/>.

Additional information for the VCS search and determinations can be found in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing*, which is available in the docket for this rulemaking.

*K. 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 significantly affect the level of protection provided to human health or the environment. The documentation for this decision is contained in section V.F of this preamble and the technical report, *Risk and Technology Review – Analysis of Demographic Factors for Populations Living Near Miscellaneous Coating Manufacturing Facilities*, available in the docket for this rulemaking.

*L. 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, Incorporation by reference, Reporting and recordkeeping requirements.

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**Andrew Wheeler,**

*Administrator.*

For the reasons stated in the preamble, the EPA amends 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. Section 63.14 is amended by:

- a. Revising paragraphs (e)(1) and (h)(26), (30), (50), (86), and (94);
- b. Redesignating paragraphs (k)(1) through (5) as paragraphs (k)(2) through (6); and
- c. Adding new paragraph (k)(1).

The revisions and addition read as follows:

**§63.14 Incorporations by reference.**

\* \* \* \* \*

(e) \* \* \*

(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), 63.457(k), 63.772(e) and (h), 63.865(b), 63.997(e), 63.1282(d) and (g), and 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), and 63.5160(d), table 4 to subpart UUUU, table 3 to subpart YYYY, §§63.7822(b), 63.7824(e), 63.7825(b), 63.8000(d), 63.9307(c), 63.9323(a), 63.9621(b) and (c), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, and table 4 to subpart AAAAA, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, table 4 to subpart KKKKK, tables 4 and 5 of subpart UUUUU, table 1 to subpart ZZZZZ, and table 4 to subpart JJJJJ.

\* \* \* \* \*

(h) \* \* \*

(26) ASTM D2369-10 (Reapproved 2015)e1, Standard Test Method for Volatile Content of Coatings, approved June 1, 2015, IBR approved for §§63.3151(a), 63.3360(c), 63.3961(j), 63.4141(a) and (b), 63.4161(h), 63.4321(e), 63.4341(e), 63.4351(d), 63.4541(a), and 63.4561(j), appendix A to subpart PPPP, and §§63.4741(a), 63.4941(a) and (b), 63.4961(j), and 63.8055(b).

\* \* \* \* \*

(30) ASTM D2697-03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, approved July 1, 2014, IBR approved for §§63.3161(f), 63.3360(c), 63.3941(b), 63.4141(b), 63.4741(a) and (b), 63.4941(b), and 63.8055(b).

\* \* \* \* \*

(50) ASTM D3960-98, Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings, approved November 10, 1998, IBR approved for §§63.3360(c) and 63.8055(b).

\* \* \* \* \*

(86) ASTM D6348-12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for §§63.997(e), 63.1571(a), and 63.2354(b), table 5 to subpart EEEE, table 4 to subpart UUUU, and §§63.7142(a) and (b) and 63.8000(d).

\* \* \* \* \*

(94) 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 §§63.987(b), 63.997(e), and 63.2354(b), table 5 to subpart EEEE, and §§63.2450(j) and 63.8000(d).

\* \* \* \* \*

(k) \* \* \*

(1) Method 310, “Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products,” amended May 25, 2018, IBR approved for §63.8055(b).

\* \* \* \* \*

## **Subpart HHHHH—National Emission Standards for Hazardous Air Pollutants:**

### **Miscellaneous Coating Manufacturing**

3. Section 63.7985 is amended by revising paragraphs (a)(1) through (3), (b) introductory text, (b)(1) through (3), and (d)(1) through (4) to read as follows:

#### **§63.7985 Am I subject to the requirements in this subpart?**

(a) \* \* \*

(1) Are located at or are part of a major source of hazardous air pollutants (HAP) emissions, as defined in section 112(a) of the Clean Air Act (CAA);

(2) Manufacture coatings as defined in §63.8105;

(3) Process, use, or produce HAP; and

\* \* \* \* \*

(b) Miscellaneous coating manufacturing operations include the facility-wide collection of equipment described in paragraphs (b)(1) through (4) of this section that is used to manufacture coatings as defined in §63.8105. Miscellaneous coating manufacturing operations also include cleaning operations.

(1) Process vessels;

(2) Storage tanks for feedstocks and products;

(3) Components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; and

\* \* \* \* \*

(d) \* \* \*

(1) Research and development facilities, as defined in section 112(c)(7) of the CAA;

(2) The affiliated operations located at an affected source under subparts GG (National Emission Standards for Aerospace Manufacturing and Rework Facilities), KK (National Emission Standards for the Printing and Publishing Industry), JJJ (NESHAP: Paper and Other Web Coating), MMM (National Emission Standards for Miscellaneous Metal Parts and Products Surface Coating Operations) and SSSS (NESHAP: Surface Coating of Metal Coil) of this part. Affiliated operations include, but are not limited to, mixing or dissolving of coating ingredients; coating mixing for viscosity adjustment, color tint or additive blending, or pH adjustment; cleaning of coating lines and coating line parts; handling and storage of coatings and solvent; and conveyance and treatment of wastewater;

(3) Ancillary equipment such as boilers and incinerators (only those not used to comply with the emission limits in Tables 1 through 5 to this subpart), chillers and refrigeration systems, and other equipment that is not directly involved in the manufacturing of a coating (*i.e.*, it operates as a closed system, and materials are not combined with materials used to manufacture the coating);

(4) Quality assurance/quality control laboratories; or

\* \* \* \* \*

4. Section 63.7990 is amended by revising paragraph (a) to read as follows:

**§63.7990 What parts of my plant does this subpart cover?**

(a) This subpart applies to each miscellaneous coating manufacturing affected source as defined in paragraph (b) of this section.

\* \* \* \* \*

5. Section 63.7995 is amended by revising paragraphs (a) introductory text and (b) and adding paragraph (e) to read as follows:

**§63.7995 When do I have to comply with this subpart?**

\* \* \* \* \*

(a) Except as specified in paragraph (e) of this section, if you have a new affected source, you must comply with this subpart according to the requirements in paragraphs (a)(1) and (2) of this section.

\* \* \* \* \*

(b) Except as specified in paragraph (e) of this section, if you have an existing affected source on December 11, 2003, then you must comply with the requirements for existing sources in this subpart no later than December 11, 2006.

\* \* \* \* \*

(e) All affected sources that commenced construction or reconstruction on or after September 4, 2019, must be in compliance with the requirements listed in paragraphs (e)(1) through (5) of this section upon initial startup or no later than **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, whichever is later. All affected sources that commenced construction or reconstruction before September 4, 2019, must be in compliance

with the requirements listed in paragraphs (e)(1) through (5) of this section no later than August 14, 2023.

(1) The general requirements specified in §§63.8000(a)(2), (b)(2), (d)(8), and (f) and 63.8005(d)(5) and (h).

(2) The reporting requirements specified in §63.8075(e)(5), (e)(6)(ii)(B) and (D), and (e)(6)(iii)(C) and (E).

(3) The recordkeeping requirements specified in §63.8080(c), (e), (f), (h), and (i).

(4) The definitions specified in §63.8105.

(5) The general provisions as specified in Table 10 to this subpart.

6. Section 63.8000 is amended by:

a. Revising paragraphs (a), (b)(2), (c)(3), (d)(1) introductory text, and (d)(1)(i) and (iii);

b. Adding paragraph (d)(1)(vi);

c. Removing and reserving paragraph (d)(2);

d. Revising paragraphs (d)(3), (d)(4)(i)(A), (d)(4)(ii)(C), and (d)(4)(iv); and

e. Adding paragraphs (d)(8), (e), and (f).

The revisions and additions read as follows:

**§63.8000 What are my general requirements for complying with this subpart?**

(a) *Applicability.* You must comply with paragraphs (a)(1) and (2) of this section.

(1) Except as specified in paragraph (a)(2) of this section, you must be in compliance with the emission limits and work practice standards in Tables 1 through 5 to this subpart at all times, except during periods of startup, shutdown, and malfunction. You must meet the requirements specified in paragraphs (b) and (c) of this section. You must meet the requirements specified in §§63.8005 through 63.8030 (or the alternative means of compliance in §63.8050),

except as specified in paragraph (d) of this section. You must meet the notification, reporting, and recordkeeping requirements specified in §§63.8070, 63.8075, and 63.8080.

(2) Beginning on the compliance dates specified in §63.7995(e), paragraph (a)(1) of this section no longer applies. Instead, beginning no later than the compliance dates specified in §63.7995(e), you must be in compliance with the emission limits and work practice standards in Tables 1 through 5 to this subpart at all times. You must meet the requirements specified in paragraphs (b) and (c) of this section. You must meet the requirements specified in §§63.8005 through 63.8030 (or the alternative means of compliance in §63.8050), except as specified in paragraph (d) of this section. You must meet the notification, reporting, and recordkeeping requirements specified in §§63.8070, 63.8075, and 63.8080.

(b) \* \* \*

(2) You must comply with paragraphs (b)(2)(i) and (ii) of this section.

(i) Except as specified in paragraph (b)(2)(ii) of this section, opening of a safety device, as defined in §63.8105, is allowed at any time conditions require it to avoid unsafe conditions.

(ii) Beginning on the compliance dates specified in §63.7995(e), paragraph (b)(2)(i) of this section no longer applies. Instead, opening of a safety device, as defined in §63.8105, is considered a deviation, as defined in §63.8105, unless it is a bypass of a control for a process vessel and accounted for as specified in §63.8005(h).

(c) \* \* \*

(3) If you use a halogen reduction device to reduce hydrogen halide and halogen HAP emissions that are generated by combusting halogenated vent streams, you must meet the requirements of §63.994, except as specified in paragraph (f) of this section, and the requirements referenced therein. If you use a halogen reduction device before a combustion

device, you must determine the halogen atom emission rate prior to the combustion device according to the procedures in §63.115(d)(2)(v).

(d) \* \* \*

(1) *Requirements for performance tests.* The requirements specified in paragraphs (d)(1)(i) through (vi) of this section apply instead of or in addition to the requirements for performance testing of control devices as specified in subpart SS of this part.

(i) Conduct gas molecular weight analysis using Method 3, 3A, or 3B in appendix A to 40 CFR part 60. As an alternative to EPA Method 3B for the manual procedures only and not the instrumental procedures, you may use ANSI/ASME PTC 19-10-1981 Part 10 (incorporated by reference, *see* §63.14) as an acceptable alternative.

\* \* \* \* \*

(iii) As an alternative to using Method 18, Method 25/25A, or Method 26/26A of 40 CFR part 60, appendix A, to comply with any of the emission limits specified in Tables 1 through 6 to this subpart you may use the alternatives specified in paragraph (d)(1)(iii)(A) or (B) of this section.

(A) As an alternative to using Method 18, Method 25/25A, or Method 26/26A of 40 CFR part 60, appendix A, you may use Method 320 of appendix A to this part. When using Method 320, you must follow the analyte spiking procedures of section 13 of Method 320, unless you demonstrate that the complete spiking procedure has been conducted at a similar source. As an alternative to Method 320 of appendix A to this part, you may use ASTM Method D6348-12e1 (incorporated by reference, *see* §63.14), with the caveats that the test plan preparation and implementation in the Annexes to ASTM Method D6348-12e1, Sections A1 through A8 are mandatory; and in ASTM Method 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  $70\% \leq R \leq 130\%$ . 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:

$$\text{Reported Results} = (\text{Measured Concentration in the Stack} \times 100) / \% R.$$

(B) As an alternative to using EPA Method 18, you may also use ASTM D6420-18 (incorporated by reference, *see* §63.14), but only when the target compounds are all known and the target compounds are all listed in ASTM D6420-18 as measurable; ASTM D6420-18 should not be used for methane and ethane; and ASTM D6420-18 may not be used as a total VOC method.

\* \* \* \* \*

(vi) You must conduct periodic performance tests and establish the operating limits required by §§63.8005(e), 63.8010(b)(1), and 63.8050(d)(3) within 5 years following the previous performance test. You must conduct the initial or first periodic performance test before August 14, 2023, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 71, and have conducted a performance test on or after August 15, 2022. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test.

(2) [Reserved]

(3) *Periodic verification.* For a control device with total inlet HAP emissions less than 1 ton per year (tpy), you must establish at least one operating limit for a parameter that you will measure and record at least once per averaging period (*i.e.*, daily or block) to verify that the control device is operating properly. You may elect to measure the same parameter that is required for control devices that control inlet HAP emissions equal to or greater than 1 tpy. If the parameter will not be measured continuously, you must request approval of your proposed procedure in the precompliance report. You must identify the operating limit or range and the measurement frequency, and you must provide rationale to support how these measurements demonstrate the control device is operating properly.

(4) \* \* \*

(i) \* \* \*

(A) If you wish to use a CEMS other than a Fourier Transform Infrared Spectroscopy (FTIR) meeting the requirements of Performance Specification 15 in appendix B to 40 CFR part 60 or a hydrogen chloride (HCl) CEMS meeting the requirements of Performance Specification 18 in appendix B to 40 CFR part 60 and Quality Assurance Procedure 6 in appendix F to 40 CFR part 60 to measure hydrogen halide and halogen HAP before we promulgate a Performance Specification for such CEMS, you must prepare a monitoring plan and submit it for approval in accordance with the procedures specified in §63.8.

\* \* \* \* \*

(ii) \* \* \*

(C) For CEMS meeting Performance Specification 8 used to monitor performance of a noncombustion device, determine the predominant organic HAP using either process knowledge or the screening procedures of Method 18 in appendix A-6 to 40 CFR part 60 on the control

device inlet stream, calibrate the monitor on the predominant organic HAP, and report the results as  $C_1$ . Use Method 18, ASTM D6420-18 (incorporated by reference, *see* §63.14), or any approved alternative as the reference method for the relative accuracy tests, and report the results as  $C_1$ .

\* \* \* \* \*

(iv) The CEMS data must be reduced to operating day or operating block averages computed using valid data, except monitoring data also are sufficient to constitute a valid hour of data if measured values are available for at least two of the 15-minute periods during an hour when calibration, quality assurance, or maintenance activities are being performed. An operating block is a period of time from the beginning to end of batch operations in the manufacturing of a coating. Operating block averages may be used only for process vessel data.

\* \* \* \* \*

(8) *Quality control program.* Beginning no later than the compliance dates specified in §63.7995(e), in lieu of the requirements specified in §63.8(d)(3), you must keep the written quality control program procedures required by §63.8(d)(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, 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).

(e) *General duty.* Beginning no later than August 14, 2023, 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 you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(f) *Removal of startup, shutdown, and malfunction requirements.* Beginning on the compliance dates specified in §63.7995(e), the referenced provisions specified in paragraphs (f)(1) through (22) of this section do not apply when demonstrating compliance with this subpart through referenced provisions of subparts SS, UU, and TT of this part.

(1) Section 63.983(a)(5).

(2) The phrase “except during periods of start-up, shutdown and malfunction as specified in the referencing subpart” in §63.984(a).

(3) The phrase “except during periods of start-up, shutdown and malfunction as specified in the referencing subpart” in §63.985(a).

(4) The phrase “other than start-ups, shutdowns, or malfunctions” in §63.994(c)(1)(ii)(D).

(5) Section 63.996(c)(2)(ii).

(6) Section 63.997(e)(1)(i).

(7) The term “breakdowns” from §63.998(b)(2)(i).

(8) Section 63.998(b)(2)(iii).

(9) The phrase “other than periods of startups, shutdowns, and malfunctions” from §63.998(b)(5)(i)(A).

(10) The phrase “other than periods of startups, shutdowns, and malfunctions” from §63.998(b)(5)(i)(C).

(11) The phrase “, except as provided in paragraphs (b)(6)(i)(A) and (B) of this section” from §63.998(b)(6)(i).

(12) The second sentence of §63.998(b)(6)(ii).

(13) Section 63.998(c)(1)(ii)(D), (E), (F), and (G).

(14) Section 63.998(d)(1)(ii).

(15) Section 63.998(d)(3)(i) and (ii).

(16) The phrase “may be included as part of the startup, shutdown, and malfunction plan, as required by the referencing subpart for the source, or” from §63.1005(e)(4)(i).

(17) The phrase “(except periods of startup, shutdown, or malfunction)” from §63.1007(e)(1)(ii)(A).

(18) The phrase “(except during periods of startup, shutdown, or malfunction)” from §63.1009(e)(1)(i)(A).

(19) The phrase “(except during periods of startup, shutdown, or malfunction)” from §63.1012(b)(1).

(20) The phrase “(except periods of startup, shutdown, or malfunction)” from §63.1026(e)(1)(ii)(A).

(21) The phrase “(except periods of startup, shutdown, or malfunction)” from §63.1028(e)(1)(i)(A).

(22) The phrase “(except periods of startup, shutdown, or malfunction)” from §63.1031(b)(1).

7. Section 63.8005 is amended by:

- a. Revising paragraphs (a)(2) and (d)(1);
- b. Adding paragraph (d)(5);
- c. Revising paragraphs (e) introductory text, (e)(2), and (g); and
- d. Adding paragraph (h).

The revisions and additions read as follows:

**§63.8005 What requirements apply to my process vessels?**

(a) \* \* \*

(2) For each control device used to comply with Table 1 to this subpart, you must comply with subpart SS of this part as specified in §63.8000(c), except as specified in §63.8000(d) and (f) and paragraphs (b) through (g) of this section.

\* \* \* \* \*

(d) \* \* \*

(1) To demonstrate initial compliance with a percent reduction emission limit in Table 1 to this subpart, you must conduct the performance test or design evaluation under conditions as specified in §63.7(e)(1), except as specified in paragraph (d)(5) of this section, and except that the performance test or design evaluation must be conducted under worst-case conditions. Also, the performance test for a control device used to control emissions from process vessels must be conducted according to §63.1257(b)(8), including the submittal of a site-specific test plan for approval prior to testing. The requirements in §63.997(e)(1)(i) and (iii) also do not apply for performance tests conducted to determine compliance with the emission limits for process vessels.

\* \* \* \* \*

(5) Beginning on the compliance dates specified in §63.7995(e), §63.7(e)(1) no longer applies and performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(e) *Establishing operating limits.* You must establish operating limits under the conditions required for your initial compliance demonstration and periodic performance tests, except you may elect to establish operating limit(s) for conditions other than those under which a performance test was conducted as specified in paragraph (e)(1) of this section and, if applicable, paragraph (e)(2) of this section.

\* \* \* \* \*

(2) If you elect to establish separate operating limits for different emission episodes, you must maintain records as specified in §63.8080(g) of each point at which you change from one operating limit to another, even if the duration of the monitoring for an operating limit is less than 15 minutes.

\* \* \* \* \*

(g) *Flow indicators.* If flow to a control device could be intermittent or bypassed, you must install, calibrate, and operate a flow indicator at the inlet or outlet of the control device to

identify periods of no flow, or you must comply with the alternatives requirements of paragraph (g)(1) or (2) of this section. Periods of no flow may not be used in daily or block averages. You must perform a flow meter verification check annually for at least two points: one at the instrument's zero and the other at the instrument's span.

(1) You must use a valve position or bypass damper position indicator that provides a continuous reading and record of the bypass valve or damper position when the control device is in operation. You must inspect the monitoring system semiannually to verify that the monitor will indicate valve position.

(2) You must secure the bypass line valve or bypass damper in the non-diverting position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the non-diverting position and that the vent stream is not diverted through the bypass line. You must also record the occurrence of all periods when the seal or closure mechanism is broken, or the key for a lock-and-key type lock has been checked out.

(h) *Bypass*. Beginning no later than the compliance date specified in §63.7995(e), when determining compliance with the percent emission reduction requirements in Table 1 to this subpart, you must account for the time that the control device was bypassed. You must use Equation 1 to this section to determine the allowable total hours of bypass for each semi-annual compliance period. To demonstrate compliance, the actual total hours of bypass must not exceed the allowable total hours of bypass calculated by Equation 1 to this section.

$$T_{byp} = (R - OCB) / R * T_{op} \quad \text{Eq. 1}$$

$T_{byp}$  = Total allowable source operating time (hours) when the control device for stationary process vessels can be bypassed during the semiannual compliance period for any reason.

R = Control efficiency of control device, percent, as determined by Equation 6 in §63.997(e)(2)(iv)(C).

OCE = The applicable percent emission reduction requirement in Table 1 to this subpart.

T<sub>op</sub> = Total source operating time (hours) for stationary process vessels during the semiannual compliance period.

8. Section 63.8010 is amended by revising paragraph (a) to read as follows:

**§63.8010 What requirements apply to my storage tanks?**

(a) *Introduction.* You must meet each emission limit in Table 2 to this subpart that applies to your storage tanks, and you must meet each applicable requirement specified in §63.8000(b). For each control device used to comply with Table 2 to this subpart, you must comply with subpart SS of this part as specified in §63.8000(c), except as specified in §63.8000(d) and (f) and paragraphs (b) through (d) of this section.

\* \* \* \* \*

9. Section 63.8025 is amended by revising paragraph (a) to read as follows:

**§63.8025 What requirements apply to my transfer operations?**

(a) You must comply with each emission limit and work practice standard in Table 5 to this subpart that applies to your transfer operations, and you must meet all applicable requirements specified in §63.8000(b). For each control device used to comply with Table 5 to this subpart, you must comply with subpart SS of this part as specified in §63.8000(c), except as specified in §63.8000(d) and (f) and paragraph (b) of this section.

\* \* \* \* \*

10. Section 63.8050 is amended by adding paragraphs (c)(3)(i) through (iii) to read as follows:

**§63.8050 How do I comply with emissions averaging for stationary process vessels at**

**existing sources?**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) If emissions are routed through a closed-vent system to a condenser control device, determine controlled emissions using the procedures specified in §63.1257(d)(3).

(ii) If emissions are routed through a closed-vent system to any control device other than a condenser, determine actual emissions after determining the efficiency of the control device using the procedures in subpart SS of this part as specified in §63.8000(c).

(iii) If the vessel is vented to the atmosphere, then actual emissions are equal to the uncontrolled emissions estimated in accordance with paragraph (c)(1) of this section.

\* \* \* \* \*

11. Section 63.8055 is amended by revising paragraphs (b)(1), (2), and (4) to read as follows:

**§63.8055 How do I comply with a weight percent HAP limit in coating products?**

\* \* \* \* \*

(b) \* \* \*

(1) Method 311 (appendix A to this part). As an alternative to Method 311, you may use California Air Resources Board Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products (incorporated by reference, *see* §63.14) for use with aerosol cans.

(2) Method 24 (appendix A to 40 CFR part 60). You may use Method 24 to determine the mass fraction of volatile matter and use that value as a substitute for the mass fraction of HAP, or one of the alternatives in paragraphs (b)(2)(i) through (iii) of this section.

(i) ASTM D2369-10 (Reapproved 2015)e1, (incorporated by reference, *see* §63.14);

(ii) ASTM D2697-03 (Reapproved 2014) (incorporated by reference, *see* §63.14); or

(iii) ASTM D3960-98 (incorporated by reference, *see* §63.14).

\* \* \* \* \*

(4) You may rely on formulation data from raw material suppliers if it represents each organic HAP that is present at 0.1 percent by mass or more for the HAP listed in Table 11 to this subpart, and at 1.0 percent by mass or more for other compounds. If the HAP weight percent estimated based on formulation data conflicts with the results of a test conducted according to paragraphs (b)(1) through (3) of this section, then there is a rebuttal presumption that the test results are accurate unless, after consultation, you demonstrate to the satisfaction of the permitting authority that the test results are not accurate and that the formulation data are more appropriate.

12. Section 63.8070 is amended by revising paragraph (c) to read as follows:

**§63.8070 What notifications must I submit and when?**

\* \* \* \* \*

(c) *Notification of performance test.* If you are required to conduct a performance test, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in §63.7(b)(1). For any performance test required as part of the compliance procedures for process vessels in Table 1 to

this subpart, you must also submit the test plan required by §63.7(c) and the emission profile with the notification of the performance test.

13. Section 63.8075 is amended by:

- a. Revising paragraphs (c)(1), (d) introductory text, (d)(1), (d)(2)(ii), (e)(5) introductory text, (e)(6)(ii) introductory text, and (e)(6)(ii)(B);
- b. Adding paragraph (e)(6)(ii)(D);
- c. Revising paragraphs (e)(6)(iii) introductory text and (e)(6)(iii)(C) and (E);
- d. Adding paragraph (e)(6)(iii)(L);
- e. Removing and reserving paragraph (e)(8)(ii)(B); and
- f. Adding paragraphs (f) through (k).

The revisions and additions read as follows:

**§63.8075 What reports must I submit and when?**

\* \* \* \* \*

(c) \* \* \*

(1) Requests for approval to set operating limits for parameters other than those specified in §§63.8005 through 63.8030, including parameters for enhanced biological treatment units. Alternatively, you may make these requests according to §63.8(f).

\* \* \* \* \*

(d) *Notification of compliance status report.* You must submit a notification of compliance status report according to the schedule in paragraph (d)(1) of this section, and the notification of compliance status report must include the information specified in paragraph (d)(2) of this section.

(1) You must submit the notification of compliance status report no later than 150 days after the applicable compliance date specified in §63.7995. You must submit a separate notification of compliance status report after the applicable compliance date specified in §63.7995(e).

(2) \* \* \*

(ii) The results of performance tests, engineering analyses, design evaluations, flare compliance assessments, inspections and repairs, and calculations used to demonstrate compliance according to §§63.8005 through 63.8030 and 63.8055. For performance tests, results must include descriptions of sampling and analysis procedures and quality assurance procedures.

\* \* \* \* \*

(e) \* \* \*

(5) For each SSM during which excess emissions occur, the compliance report must include the information specified in paragraphs (e)(5)(i) and (ii) of this section. On and after the compliance date specified in §63.7995(e), this paragraph (e)(5) no longer applies.

\* \* \* \* \*

(6) \* \* \*

(ii) For each deviation from an emission limit, operating limit, and work practice standard that occurs at an affected source where you are not using a continuous monitoring system (CMS) to comply with the emission limit or work practice standards in this subpart, you must include the information in paragraphs (e)(6)(ii)(A) through (D) of this section.

\* \* \* \* \*

(B) Before the compliance date specified in §63.7995(e), information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the

corrective action taken. On and after the compliance date specified in §63.7995(e), report the number of failures to meet an applicable standard. For each instance, report the date, time, and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and the cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

\* \* \* \* \*

(D) On and after the compliance date specified in §63.7995(e), report the total bypass hours, as monitored according to the provisions of §63.8080(h).

(iii) For each deviation from an emission limit or operating limit occurring at an affected source where you are using a CMS to comply with the emission limit in this subpart, you must include the information in paragraphs (e)(6)(iii)(A) through (L) of this section. This includes periods of SSM.

\* \* \* \* \*

(C) Before the compliance date specified in §63.7995(e), the date and time that each deviation started and stopped, and whether each deviation occurred during a period of SSM or during another period. On and after the compliance date specified in §63.7995(e), report the number of failures to meet an applicable standard. For each instance, report the date, time, and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and the cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

\* \* \* \* \*

(E) Before the compliance date specified in §63.7995(e), a breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. On and after the compliance date specified in §63.7995(e), a breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

\* \* \* \* \*

(L) A summary of the total duration of CMS data unavailability during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

\* \* \* \* \*

(f) *Performance test report.* On and after August 14, 2023, within 60 days after the date of completing each performance test required by §63.8000, §63.8005, or §63.8010, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section. The requirements of this paragraph (f) do not affect the schedule for completing performance tests specified in §§63.8000, 63.8005, and 63.8010.

(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), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The data must be submitted in a file format generated through the use of 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. Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (<https://cdx.epa.gov/>). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the 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.

(3) *Confidential business information (CBI).* If you claim that some of the performance test information being submitted under paragraph (f) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT 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/OAPQS/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 must be submitted to the EPA via the EPA's CDX as described in this paragraph (f).

(g) *Performance evaluation report.* On and after August 14, 2023, within 60 days after the date of completing each CMS performance evaluation (as defined in §63.2), you must submit

the results of the performance evaluation following the procedures specified in paragraphs (g)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS 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.* The results of the performance evaluation 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.

(3) *CBI.* If you claim some of the information submitted under paragraph (g) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT 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 must be submitted to the EPA via the EPA's CDX as described in paragraph (f) of this section.

(h) *Reporting*. You must submit to the Administrator initial compliance reports, notification of compliance status reports, and compliance reports of the following information. Beginning on and after August 14, 2023, submit all subsequent reports following the procedure specified in paragraph (i) of this section.

(i) *CEDRI reports*. If you are required to submit reports following the procedure specified in this paragraph (i), you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (<https://cdx.epa.gov>).

(1) *Compliance reports*. The requirements of this paragraph (i) do not affect the schedule for submitting the initial notification or the notification of compliance status reports. You must use the appropriate electronic compliance 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.

(2) *Initial notification reports and notification of compliance status reports*. You must upload to CEDRI a portable document format (PDF) file of each initial notification and of each notification of compliance status.

(3) *All reports*. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim 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 form on the CEDRI website, where applicable. 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 as described in this paragraph (i).

(j) *Extensions for CDX / CEDRI outages and force majeure events.* 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 the reporting requirement in this section. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (j)(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 5 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 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) 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.

(k) *Force majeure*. 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 the reporting requirement in this section. To assert a claim of *force majeure*, you must meet the requirements outlined in paragraphs (k)(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 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) 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.

14. Section 63.8080 is amended by revising the introductory text and paragraphs (c), (e), and (f) and adding paragraphs (h) through (j) to read as follows:

**§63.8080 What records must I keep?**

You must keep the records specified in paragraphs (a) through (h) of this section.

\* \* \* \* \*

(c) Before the compliance date specified in §63.7995(e), a record of each time a safety device is opened to avoid unsafe conditions in accordance with §63.8000(b)(2). On and after the compliance date specified in §63.7995(e), a record of the information in paragraphs (c)(1) through (3) of this section.

- (1) The source, nature, and cause of the opening.
- (2) The date, time, and duration of the opening.
- (3) An estimate of the quantity of total HAP emitted during the opening and the method used for determining this quantity.

\* \* \* \* \*

(e) Before the compliance date specified in §63.7995(e), for each CEMS, you must keep the records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of SSM or during another period. On and after the compliance date specified in §63.7995(e), for each CEMS, you must keep the records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of SSM or during another period.

(f) Before the compliance date specified in §63.7995(e), in the SSMP required by §63.6(e)(3), you are not required to include Group 2 or non-affected emission points. For equipment leaks only, the SSMP requirement is limited to control devices and is optional for other equipment. On and after the compliance date specified in §63.7995(e), the requirements of this paragraph (f) no longer apply.

\* \* \* \* \*

(h) On and after the compliance date specified in §63.7995(e), records of the total source operating time (hours) for stationary process vessels during the semiannual compliance period, and the source operating time (hours) when the control device for stationary process vessels was bypassed during the semiannual compliance period for any reason, as used in determining compliance with the percent emission reduction requirements in Table 1 to this subpart, as specified in §63.8005(h).

(i) On and after the compliance date specified in §63.7995(e), for each deviation from an emission limitation reported under §63.8075(e)(5), a record of the information specified in paragraphs (i)(1) and (2) of this section, as applicable.

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

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

(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.

15. Section 63.8090 is amended by revising paragraph (b) to read as follows:

**§63.8090 What compliance options do I have if part of my plant is subject to both this subpart and another subpart?**

\* \* \* \* \*

(b) *Compliance with 40 CFR part 60, subpart Kb.* After the compliance dates specified in §63.7995, you are in compliance with this subpart for any storage tank that is assigned to miscellaneous coating manufacturing operations and that is both controlled with a floating roof and in compliance with the provisions of 40 CFR part 60, subpart Kb. You are in compliance with this subpart if you have a storage tank with a fixed roof, closed-vent system, and control device in compliance with 40 CFR part 60, subpart Kb, and you are in compliance with the monitoring, recordkeeping, and reporting requirements in this subpart. You must also identify in your notification of compliance status report required by §63.8075(d) which storage tanks are in compliance with 40 CFR part 60, subpart Kb.

\* \* \* \* \*

16. Section 63.8105 is amended in paragraph (g) by revising the definition for “Deviation” and removing the definition for “Small control device” to read as follows:

**§63.8105 What definitions apply to this subpart?**

\* \* \* \* \*

(g) \* \* \*

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

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

(ii) 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

(iii) Before the compliance date specified in §63.7995(e), fails to meet any emission limit, operating limit, or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart. On and after the compliance date specified in §63.7995(e), this paragraph (iii) no longer applies.

\* \* \* \* \*

17. Table 1 to subpart HHHHH of part 63 is amended by revising row 4 to read as follows:

TABLE 1 TO SUBPART HHHHH OF PART 63—EMISSION LIMITS AND WORK  
PRACTICE STANDARDS FOR PROCESS VESSELS

\* \* \* \* \*

| For each . . .                                                                                                                                                                           | You must . . .                                                                                                                                                 | And you must . . .                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| * * * * *                                                                                                                                                                                |                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                          |
| 4. Halogenated vent stream from a process vessel subject to the requirements of item 2 or 3 of this table for which you use a combustion control device to control organic HAP emissions | <p>a. Use a halogen reduction device after the combustion control device; or</p> <p>b. Use a halogen reduction device before the combustion control device</p> | <p>i. Reduce overall emissions of hydrogen halide and halogen HAP by <math>\geq 95</math> percent; or</p> <p>ii. Reduce overall emissions of hydrogen halide and halogen HAP to <math>\leq 0.45</math> kilogram per hour (kg/hr).</p> <p>Reduce the halogen atom mass emission rate to <math>\leq 0.45</math> kg/hr.</p> |

18. Table 3 to subpart HHHHH of part 63 is revised to read as follows:

**TABLE 3 TO SUBPART HHHHH OF PART 63—REQUIREMENTS FOR EQUIPMENT  
LEAKS**

As required in §63.8015, you must meet each requirement in the following table that applies to your equipment leaks.

| For all . . .                                                     | You must . . .                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Equipment that is in organic HAP service at an existing source | <p>a. Comply with the requirements in §§63.424(a) through (d) and 63.428(e), (f), and (h)(4), except as specified in §63.8015(b); or</p> <p>b. Comply with the requirements of subpart TT of this part, except as specified in §63.8000(f); or</p> |

|                                                             |                                                                                                                                                                                                                                   |
|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                             | c. Comply with the requirements of subpart UU of this part, except as specified in §§63.8000(f) and 63.8015(c) and (d).                                                                                                           |
| 2. Equipment that is in organic HAP service at a new source | a. Comply with the requirements of subpart TT of this part, except as specified in §63.8000(f); or<br><br>b. Comply with the requirements of subpart UU of this part, except as specified in §§63.8000(f) and 63.8015(c) and (d). |

19. Table 7 to subpart HHHHH of part 63 is revised to read as follows:

**TABLE 7 TO SUBPART HHHHH OF PART 63—PARTIALLY SOLUBLE HAZARDOUS  
AIR POLLUTANTS**

As specified in § 63.8020, the partially soluble HAP in wastewater that are subject to management and treatment requirements in this subpart are listed in the following table:

| Chemical name . . .                           | CAS No. |
|-----------------------------------------------|---------|
| 1. 1,1,1-Trichloroethane (methyl chloroform)  | 71556   |
| 2. 1,1,2,2-Tetrachloroethane                  | 79345   |
| 3. 1,1,2-Trichloroethane                      | 79005   |
| 4. 1,1-Dichloroethylene (vinylidene chloride) | 75354   |
| 5. 1,2-Dibromoethane                          | 106934  |
| 6. 1,2-Dichloroethane (ethylene dichloride)   | 107062  |
| 7. 1,2-Dichloropropane                        | 78875   |
| 8. 1,3-Dichloropropene                        | 542756  |
| 9. 2,4,5-Trichlorophenol                      | 95954   |
| 10. 1,4-Dichlorobenzene                       | 106467  |
| 11. 2-Nitropropane                            | 79469   |
| 12. 4-Methyl-2-pentanone (MIBK)               | 108101  |
| 13. Acetaldehyde                              | 75070   |

| Chemical name . . .               | CAS No. |
|-----------------------------------|---------|
| 14. Acrolein                      | 107028  |
| 15. Acrylonitrile                 | 107131  |
| 16. Allyl chloride                | 107051  |
| 17. Benzene                       | 71432   |
| 18. Benzyl chloride               | 100447  |
| 19. Biphenyl                      | 92524   |
| 20. Bromoform (tribromomethane)   | 75252   |
| 21. Bromomethane                  | 74839   |
| 22. Butadiene                     | 106990  |
| 23. Carbon disulfide              | 75150   |
| 24. Chlorobenzene                 | 108907  |
| 25. Chloroethane (ethyl chloride) | 75003   |
| 26. Chloroform                    | 67663   |
| 27. Chloromethane                 | 74873   |
| 28. Chloroprene                   | 126998  |
| 29. Cumene                        | 98828   |
| 30. Dichloroethyl ether           | 111444  |
| 31. Dinitrophenol                 | 51285   |
| 32. Epichlorohydrin               | 106898  |
| 33. Ethyl acrylate                | 140885  |
| 34. Ethylbenzene                  | 100414  |
| 35. Ethylene oxide                | 75218   |
| 36. Ethylidene dichloride         | 75343   |
| 37. Hexachlorobenzene             | 118741  |
| 38. Hexachlorobutadiene           | 87683   |
| 39. Hexachloroethane              | 67721   |
| 40. Methyl methacrylate           | 80626   |
| 41. Methyl-t-butyl ether          | 1634044 |

| Chemical name . . .                           | CAS No. |
|-----------------------------------------------|---------|
| 42. Methylene chloride                        | 75092   |
| 43. N-hexane                                  | 110543  |
| 44. N,N-dimethylaniline                       | 121697  |
| 45. Naphthalene                               | 91203   |
| 46. Phosgene                                  | 75445   |
| 47. Propionaldehyde                           | 123386  |
| 48. Propylene oxide                           | 75569   |
| 49. Styrene                                   | 100425  |
| 50. Tetrachloroethylene (perchloroethylene)   | 127184  |
| 51. Tetrachloromethane (carbon tetrachloride) | 56235   |
| 52. Toluene                                   | 108883  |
| 53. Trichlorobenzene (1,2,4-)                 | 120821  |
| 54. Trichloroethylene                         | 79016   |
| 55. Trimethylpentane                          | 540841  |
| 56. Vinyl acetate                             | 108054  |
| 57. Vinyl chloride                            | 75014   |
| 58. Xylene (m)                                | 108383  |
| 59. Xylene (o)                                | 95476   |
| 60. Xylene (p)                                | 106423  |

20. The heading of table 8 to subpart HHHHH of part 63 is revised to read as follows:

TABLE 8 TO SUBPART HHHHH OF PART 63—SOLUBLE HAZARDOUS AIR  
POLLUTANTS

\*       \*       \*       \*       \*

21. Table 9 to subpart HHHHH of part 63 is amended by adding rows 4 and 5 to read as follows:

TABLE 9 TO SUBPART HHHHH OF PART 63—REQUIREMENTS FOR REPORTS

\* \* \* \* \*

| You must submit a . . .          | The report must contain . . .            | You must submit the report . . .                                                                             |
|----------------------------------|------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| * * *                            | * * *                                    | * * *                                                                                                        |
| 4. Performance test report       | The information specified in §63.8075(f) | Within 60 days after completing each performance test according to the requirements in §63.8075(f)           |
| 5. Performance evaluation report | The information specified in §63.8075(g) | Within 60 days after completing each CMS performance evaluation according to the requirements in §63.8075(g) |

22. Table 10 to subpart HHHHH of part 63 is revised to read as follows:

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART

As specified in §63.8095, the parts of the general provisions that apply to you are shown in the following table:

| Citation | Subject                     | 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) | Applicability               | Yes.        |

| Citation             | Subject                                                                   | Explanation                                                                                                                                                                |
|----------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| §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 | 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              | Yes.                                                                                                                                                                       |
| §63.6(d)             | [Reserved]                                                                |                                                                                                                                                                            |
| §63.6(e)(1)(i)       | General Duty to Minimize Emissions.                                       | Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e). See §63.8000(e) for the general duty requirement. |
| §63.6(e)(1)(ii)      | Requirement to Correct Malfunctions as Soon as Possible                   | Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e).                                                   |
| §63.6(e)(1)(iii)-(2) | Operation and Maintenance                                                 | Yes.                                                                                                                                                                       |
| §63.6(e)(3)          | SSM Plan.                                                                 | Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e).                                                   |
| §63.6(f)(1)          | Compliance with Non-Opacity Standards Except During SSM                   | No. See §63.8000(a).                                                                                                                                                       |
| §63.6(f)(2)-(3)      | Methods for Determining Compliance                                        | Yes.                                                                                                                                                                       |
| §63.6(g)(1)-(3)      | Alternative Standard                                                      | Yes.                                                                                                                                                                       |

| Citation         | Subject                                                                          | Explanation                                                                                                                                                                                                                                                         |
|------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| §63.6(h)(1)      | Compliance with Opacity/<br>Visible Emission (VE)<br>Standards Except During SSM | No. See §63.8000(a).                                                                                                                                                                                                                                                |
| §63.6(h)(2)-(9)  | Opacity/ VESStandards                                                            | Only for flares for which Method 22 of 40 CFR part 60, appendix A-7, observations are required as part of a flare compliance assessment.                                                                                                                            |
| §63.6(i)(1)-(14) | Compliance Extension                                                             | Yes.                                                                                                                                                                                                                                                                |
| §63.6(j)         | Presidential Compliance<br>Exemption                                             | Yes.                                                                                                                                                                                                                                                                |
| §63.7(a)(1)-(2)  | Performance Test Dates                                                           | Yes, except substitute 150 days for 180 days.                                                                                                                                                                                                                       |
| §63.7(a)(3)-(4)  | CAA Section 114 Authority,<br>Force Majeure                                      | Yes, and these paragraphs also apply to flare compliance assessments as specified under §63.997(b)(2).                                                                                                                                                              |
| §63.7(b)(1)      | Notification of Performance Test                                                 | Yes.                                                                                                                                                                                                                                                                |
| §63.7(b)(2)      | Notification of Rescheduling                                                     | Yes.                                                                                                                                                                                                                                                                |
| §63.7(c)         | Quality Assurance/Test Plan                                                      | Yes, except the test plan must be submitted with the notification of the performance test if the control device controls process vessels.                                                                                                                           |
| §63.7(d)         | Testing Facilities                                                               | Yes.                                                                                                                                                                                                                                                                |
| §63.7(e)(1)      | Conditions for Conducting<br>Performance Tests                                   | Yes, before the compliance date specified in §63.7995(e), except that performance tests for process vessels must be conducted under worst-case conditions as specified in §63.8005. No, on and after the compliance date specified in §63.7995(e). See §63.8005(d). |
| §63.7(e)(2)      | Conditions for Conducting<br>Performance Tests                                   | Yes.                                                                                                                                                                                                                                                                |
| §63.7(e)(3)      | Test Run Duration                                                                | Yes.                                                                                                                                                                                                                                                                |
| §63.7(f)         | Alternative Test Method                                                          | Yes.                                                                                                                                                                                                                                                                |
| §63.7(g)         | Performance Test Data Analysis                                                   | Yes.                                                                                                                                                                                                                                                                |

| Citation         | Subject                                            | Explanation                                                                                                                                                                                     |
|------------------|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| §63.7(h)         | Waiver of Tests                                    | Yes.                                                                                                                                                                                            |
| §63.8(a)(1)      | Applicability of Monitoring Requirements           | Yes.                                                                                                                                                                                            |
| §63.8(a)(2)      | Performance Specifications                         | Yes.                                                                                                                                                                                            |
| §63.8(a)(3)      | [Reserved]                                         |                                                                                                                                                                                                 |
| §63.8(a)(4)      | Monitoring with Flares                             | Yes.                                                                                                                                                                                            |
| §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)   | Maintain and operate CMS                           | Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e). See §63.8000(e) for the general duty to maintain and operate each CMS. |
| §63.8(c)(1)(ii)  | Routine repairs                                    | Yes.                                                                                                                                                                                            |
| §63.8(c)(1)(iii) | Requirement to develop SSM plan for CMS            | Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e).                                                                        |
| §63.8(c)(2)-(3)  | Monitoring System Installation                     | Yes.                                                                                                                                                                                            |
| §63.8(c)(4)      | Requirements                                       | Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part. This subpart does not contain requirements for continuous opacity monitoring systems (COMS).          |
| §63.8(c)(4)(i)   | CMS Requirements                                   | No. This subpart does not require COMS.                                                                                                                                                         |
| §63.8(c)(4)(ii)  | CMS requirements                                   | Yes.                                                                                                                                                                                            |
| §63.8(c)(5)      | COMS Minimum Procedures                            | No. This subpart does not contain opacity or VE limits.                                                                                                                                         |

| Citation        | Subject                               | Explanation                                                                                                                                                                                                                        |
|-----------------|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| §63.8(c)(6)     | CMS Requirements                      | Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.                                                                                                                                          |
| §63.8(c)(7)-(8) | CMS Requirements                      | Only for CEMS. Requirements for CPMS are specified in referenced subpart SS of this part.                                                                                                                                          |
| §63.8(d)(1)-(2) | CMS Quality Control                   | Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.                                                                                                                                          |
| §63.8(d)(3)     | Written procedures for CMS            | Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e). See §63.8000(d)(8).                                                                                       |
| §63.8(e)        | CMS Performance Evaluation            | Section 63.8(e)(6)(ii) does not apply because this subpart does not require COMS. Other sections apply only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.                                   |
| §63.8(f)(1)-(5) | Alternative Monitoring Method         | Yes, except you may also request approval using the precompliance report.                                                                                                                                                          |
| §63.8(f)(6)     | Alternative to Relative Accuracy Test | Only for CEMS.                                                                                                                                                                                                                     |
| §63.8(g)(1)-(4) | Data Reduction                        | Only when using CEMS, except §63.8(g)(2) does not apply because data reduction requirements for CEMS are specified in §63.8000(d)(4)(iv). The requirements for COMS do not apply because this subpart has no opacity or VE limits. |
| §63.8(g)(5)     | Data Reduction                        | No. Requirements for CEMS are specified in §63.8000(d)(4). Requirements for CPMS are specified in referenced subpart SS of this part.                                                                                              |
| §63.9(a)        | Notification Requirements             | Yes.                                                                                                                                                                                                                               |
| §63.9(b)(1)-(5) | Initial Notifications                 | Yes.                                                                                                                                                                                                                               |

| Citation             | Subject                                                           | Explanation                                                                                                                                                                                                                             |
|----------------------|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| §63.9(c)             | Request for Compliance Extension                                  | Yes.                                                                                                                                                                                                                                    |
| §63.9(d)             | Notification of Special Compliance Requirements for New Source    | Yes.                                                                                                                                                                                                                                    |
| §63.9(e)             | Notification of Performance Test                                  | Yes.                                                                                                                                                                                                                                    |
| §63.9(f)             | Notification of VE/Opacity Test                                   | No. This subpart does not contain opacity or VE limits.                                                                                                                                                                                 |
| §63.9(g)             | Additional Notifications When Using CMS                           | Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.                                                                                                                                               |
| §63.9(h)(1)-(6)      | Notification of Compliance Status                                 | Yes, except this subpart has no opacity or VE limits, and §63.9(h)(2) does not apply because §63.8075(d) specifies the required contents and due date of the notification of compliance status report.                                  |
| §63.9(i)             | Adjustment of Submittal Deadlines                                 | Yes.                                                                                                                                                                                                                                    |
| §63.9(j)             | Change in Previous Information                                    | No, §63.8075(e)(8) specifies reporting requirements for process changes.                                                                                                                                                                |
| §63.10(a)            | Recordkeeping/Reporting                                           | Yes.                                                                                                                                                                                                                                    |
| §63.10(b)(1)         | Recordkeeping/Reporting                                           | Yes.                                                                                                                                                                                                                                    |
| §63.10(b)(2)(i)-(ii) | Records related to SSM                                            | No. Before the compliance date specified in §63.7995(e), see §63.998(c)(1)(ii)(D) through (G) and (d)(3) for recordkeeping requirements for periods of SSM. On and after the compliance date specified in §63.7995(e), see §63.8080(i). |
| §63.10(b)(2)(iii)    | Records related to maintenance of air pollution control equipment | Yes.                                                                                                                                                                                                                                    |
| §63.10(b)(2)(iv)-(v) | Records related to SSM                                            | Yes, before the compliance date specified in §63.7995(e). No, on and after the compliance date specified in §63.7995(e).                                                                                                                |

| Citation                        | Subject                              | Explanation                                                                                                                                                                                                            |
|---------------------------------|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| §63.10(b)(2)(vi), (x), and (xi) | CMS Records                          | Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.                                                                                                                              |
| §63.10(b)(2)(vii)-(ix)          | Records                              | Yes.                                                                                                                                                                                                                   |
| §63.10(b)(2)(xii)               | Records                              | Yes.                                                                                                                                                                                                                   |
| §63.10(b)(2)(xiii)              | Records                              | Yes.                                                                                                                                                                                                                   |
| §63.10(b)(2)(xiv)               | Records                              | Yes.                                                                                                                                                                                                                   |
| §63.10(b)(3)                    | Records                              | Yes.                                                                                                                                                                                                                   |
| §63.10(c)(1)-(6), (9)-(14)      | Records                              | Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.                                                                                                                              |
| §63.10(c)(7)-(8), (15)          | Records                              | No. Recordkeeping requirements are specified in §63.8080.                                                                                                                                                              |
| §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. This subpart does not contain opacity or VE limits.                                                                                                                                                                |
| §63.10(d)(4)                    | Progress Reports                     | Yes.                                                                                                                                                                                                                   |
| §63.10(d)(5)(i)                 | SSM Reports                          | No. Before the compliance date specified in §63.7995(e), see §63.8075(e)(5) and (6) for the SSM reporting requirements. On and after the compliance date specified in §63.7995(e), these requirements no longer apply. |
| §63.10(d)(5)(ii)                | Immediate SSM reports                | No.                                                                                                                                                                                                                    |
| §63.10(e)(1)-(2)                | Additional CMS Reports               | Only for CEMS, but §63.10(e)(2)(ii) does not apply because this subpart does not require COMS.                                                                                                                         |
| §63.10(e)(3)                    | Reports                              | No. Reporting requirements are specified in §63.8075.                                                                                                                                                                  |
| §63.10(e)(3)(i)-(iii)           | Reports                              | No. Reporting requirements are specified in §63.8075.                                                                                                                                                                  |

| Citation              | Subject                                    | Explanation                                             |
|-----------------------|--------------------------------------------|---------------------------------------------------------|
| §63.10(e)(3)(iv)-(v)  | Excess Emissions Reports                   | No. Reporting requirements are specified in §63.8075.   |
| §63.10(e)(3)(vi-viii) | Excess Emissions Report and Summary Report | No. Reporting requirements are specified in §63.8075.   |
| §63.10(e)(4)          | Reporting COMS data                        | No. This subpart does not contain opacity or VE limits. |
| §63.10(f)             | Waiver for Recordkeeping/Reporting         | Yes.                                                    |
| §63.11                | Control and work practice requirements     | Yes.                                                    |
| §63.12                | Delegation                                 | Yes.                                                    |
| §63.13                | Addresses                                  | Yes.                                                    |
| §63.14                | Incorporation by Reference                 | Yes.                                                    |
| §63.15                | Availability of Information                | Yes.                                                    |

23. Table 11 to subpart HHHHH of part 63 is added to read as follows:

TABLE 11 TO SUBPART HHHHH OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

| Chemical Name               | CAS No.  |
|-----------------------------|----------|
| 1,1,2,2-Tetrachloroethane   | 79-34-5  |
| 1,1,2-Trichloroethane       | 79-00-5  |
| 1,1-Dimethylhydrazine       | 57-14-7  |
| 1,2-Dibromo-3-chloropropane | 96-12-8  |
| 1,2-Diphenylhydrazine       | 122-66-7 |
| 1,3-Butadiene               | 106-99-0 |
| 1,3-Dichloropropene         | 542-75-6 |

| Chemical Name                       | CAS No.    |
|-------------------------------------|------------|
| 1,4-Dioxane                         | 123-91-1   |
| 2,4,6-Trichlorophenol               | 88-06-2    |
| 2,4/2,6-Dinitrotoluene (mixture)    | 25321-14-6 |
| 2,4-Dinitrotoluene                  | 121-14-2   |
| 2,4-Toluene diamine                 | 95-80-7    |
| 2-Nitropropane                      | 79-46-9    |
| 3,3'-Dichlorobenzidine              | 91-94-1    |
| 3,3'-Dimethoxybenzidine             | 119-90-4   |
| 3,3'-Dimethylbenzidine              | 119-93-7   |
| 4,4'-Methylene bis(2-chloroaniline) | 101-14-4   |
| Acetaldehyde                        | 75-07-0    |
| Acrylamide                          | 79-06-1    |
| Acrylonitrile                       | 107-13-1   |
| Allyl chloride                      | 107-05-1   |
| alpha-Hexachlorocyclohexane (a-HCH) | 319-84-6   |
| Aniline                             | 62-53-3    |
| Benzene                             | 71-43-2    |
| Benzidine                           | 92-87-5    |
| Benzotrichloride                    | 98-07-7    |
| Benzyl chloride                     | 100-44-7   |
| beta-Hexachlorocyclohexane (b-HCH)  | 319-85-7   |
| Bis(2-ethylhexyl)phthalate          | 117-81-7   |

| Chemical Name                              | CAS No.   |
|--------------------------------------------|-----------|
| Bis(chloromethyl)ether                     | 542-88-1  |
| Bromoform                                  | 75-25-2   |
| Captan                                     | 133-06-2  |
| Carbon tetrachloride                       | 56-23-5   |
| Chlordane                                  | 57-74-9   |
| Chlorobenzilate                            | 510-15-6  |
| Chloroform                                 | 67-66-3   |
| Chloroprene                                | 126-99-8  |
| Cresols (mixed)                            | 1319-77-3 |
| DDE                                        | 3547-04-4 |
| Dichloroethyl ether                        | 111-44-4  |
| Dichlorvos                                 | 62-73-7   |
| Epichlorohydrin                            | 106-89-8  |
| Ethyl acrylate                             | 140-88-5  |
| Ethylene dibromide                         | 106-93-4  |
| Ethylene dichloride                        | 107-06-2  |
| Ethylene oxide                             | 75-21-8   |
| Ethylene thiourea                          | 96-45-7   |
| Ethylidene dichloride (1,1-Dichloroethane) | 75-34-3   |
| Formaldehyde                               | 50-00-0   |
| Heptachlor                                 | 76-44-8   |
| Hexachlorobenzene                          | 118-74-1  |

| Chemical Name                                | CAS No.  |
|----------------------------------------------|----------|
| Hexachlorobutadiene                          | 87-68-3  |
| Hexachloroethane                             | 67-72-1  |
| Hydrazine                                    | 302-01-2 |
| Isophorone                                   | 78-59-1  |
| Lindane (hexachlorocyclohexane, all isomers) | 58-89-9  |
| m-Cresol                                     | 108-39-4 |
| Methylene chloride                           | 75-09-2  |
| Naphthalene                                  | 91-20-3  |
| Nitrobenzene                                 | 98-95-3  |
| Nitrosodimethylamine                         | 62-75-9  |
| o-Cresol                                     | 95-48-7  |
| o-Toluidine                                  | 95-53-4  |
| Parathion                                    | 56-38-2  |
| p-Cresol                                     | 106-44-5 |
| p-Dichlorobenzene                            | 106-46-7 |
| Pentachloronitrobenzene                      | 82-68-8  |
| Pentachlorophenol                            | 87-86-5  |
| Propoxur                                     | 114-26-1 |
| Propylene dichloride                         | 78-87-5  |
| Propylene oxide                              | 75-56-9  |
| Quinoline                                    | 91-22-5  |
| Tetrachloroethene                            | 127-18-4 |

| Chemical Name       | CAS No.   |
|---------------------|-----------|
| Toxaphene           | 8001-35-2 |
| Trichloroethylene   | 79-01-6   |
| Trifluralin         | 1582-09-8 |
| Vinyl bromide       | 593-60-2  |
| Vinyl chloride      | 75-01-4   |
| Vinylidene chloride | 75-35-4   |

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