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40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline); Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2003–0138, FRL–7993–7]

RIN 2060–AM77

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: On February 3, 2004 (69 FR 5038), the EPA issued national emission standards for hazardous air pollutants for organic liquids distribution (non-gasoline) (OLD NESHAP) under section 112 of the Clean Air Act (CAA). In this action, EPA is proposing to amend portions of the OLD NESHAP in response to petitions for judicial review and for administrative reconsideration of the promulgated rule. The proposed amendments are being made to clarify the applicability and control requirements for storage tanks and transfer racks, and amend the recordkeeping and reporting requirements for affected sources for which there are no control requirements. The proposed amendments do not reflect the full set of possible amendments EPA intends to propose in response to all of the issues raised in the petitions for review and reconsideration. The Agency is separately developing a proposed response to some of those issues.

DATES: *Comments.* Submit comments on or before December 29, 2005.

Public Hearing. If a public hearing is requested by November 25, 2005, the EPA will hold a public hearing by November 29, 2005. To request a public hearing, contact Ms. Martha Smith, EPA, Waste and Chemical Processes Group (C439–03), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2421, facsimile number (919) 541–0246, electronic mail address: *smith.martha@epa.gov.*

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. OAR–2003–0138, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Agency Web site: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment systems, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: *A-and-R-Docket@epamail.epa.gov*
- Fax: 202–566–1741
- Mail: (in duplicate, if possible) to Air and Radiation Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- Hand Delivery: (in duplicate, if possible) to: Air and Radiation Docket, Attention Docket ID Number OAR–2003–0138, EPA, 1301 Constitution Avenue, NW., Room B–102, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. OAR–2003–0138. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in either the EDOCKET index at *http://www.epa.gov/edocket* or in the legacy docket, A–98–13. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying docket materials. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

Public Hearing. If a public hearing is held, it will be held at 10 a.m. at the EPA facility complex in Research Triangle Park, North Carolina, or at an alternate site nearby.

FOR FURTHER INFORMATION CONTACT: Ms. Martha Smith, EPA, Waste and Chemical Processes Group (C439–03), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2421, facsimile number (919) 541–3207, electronic mail address: *smith.martha@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include:

Category	NAICS * code	SIC * code	Examples of regulated entities
Industry	325211 325192 325188 32411 49311 49319 48611 42269 42271	2821 2865 2869 2911 4226 4612 5169 5171	Operations at major sources that transfer organic liquids into or out of the plant site, including: liquid storage terminals, crude oil pipeline stations, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with collocated OLD operations.
Federal Government			Federal agency facilities that operate any of the types of entities listed under the ''industry'' category in this table.

* Considered to be the primary industrial codes for the plant sites with OLD operations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria 40 CFR part 63, subpart EEEE. If you have any questions regarding the applicability of this action to a particular entity, consult the individual described in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Submitting Comments Containing CBI. Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

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

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Martha Smith, Waste and Chemical Processes Group, Emission Standards Division, (C439–04), Research Triangle Park, NC 27711, telephone number (919) 541–2421, at least 2 days in advance of the potential date of the public hearing. Persons interested in attending the public hearing must also call Ms. Smith to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed emissions standards.

Outline. The following outline is provided to aid in reading this preamble to the proposed rule amendments.

I. Background

On February 3, 2004 (69 FR 5063), the **Federal Register** published EPA's National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline) (40 CFR part 63, subpart EEEE). Subpart EEEE sets emission limits and work practice standards for storage tanks, transfer racks, equipment leak components in organic liquid service, transport vehicles, and containers. These standards identify several control options for storage tanks and transfer racks that meet certain criteria. Because storage tanks and transfer racks in OLD operation may also be covered by other existing NESHAP, subpart EEEE addresses these overlap situations. Finally, subpart EEEE also contains notification, recordkeeping, and reporting requirements.

Since publication of the OLD NESHAP, EPA has received several petitions for administrative reconsideration of the OLD NESHAP, and several petitions for judicial review have been filed in the U.S. Court of Appeals for the DC Circuit. Petitions for reconsideration were submitted to EPA

by the Alliance of Automobile Manufacturers, the General Electric Company, and the Prince William Sound Regional Citizen's Advisory Council (RCAC). Petitions for judicial review were filed by the American Chemical Council, the Coke Oven Environmental Task Force, the General Electric Company, and Mr. Stan Stephens. On April 5, 2004, the court consolidated the petitions for review under *Stan Stephens* v. *USEPA,* No. 04–1112 (DC Cir.). On April 30, 2004, the court granted the motion of Alyeska Pipeline Service Company to intervene in the case and granted the parties' joint motion to hold the case in abeyance pending EPA's response to the petitions for reconsideration.

In responding to the petitions, EPA plans to publish two separate rulemakings. Today's proposed amendments are the first of these two actions. The proposed amendments in this notice are those that the Agency can make without substantial analysis of data and can be made more quickly to ensure correct implementation of the final rule. The remaining items, which are associated with the incorporation of wastewater into the OLD NESHAP, will be addressed in the second rulemaking. Today's proposed amendments, therefore, are not to be considered EPA's response to all of the issues raised in the petitions.

II. Proposed Amendments to the Organic Liquids Distribution NESHAP

We are proposing a number of changes to the OLD NESHAP. For storage tanks, the proposed changes include, but are not limited to, control options for those storing high vapor pressure liquids and overlap with other storage tank rules. For transfer racks, the proposed changes include, but are not limited to, defining total actual annual facility-level organic liquid loading volume and how to calculate its value, revising the definition of transfer rack, and compliance dates and control options as the result of changes in facility-level loading volumes. Numerous changes are being proposed with regard to notification, recordkeeping, and reporting requirements including, but not limited to: (1) Requirements for emission sources that are not required to be controlled under the OLD NESHAP, including startup, shutdown, and malfunction plans; (2) operating scenarios; (3) initial notification of compliance status (NOCS); and (4) Department of Transportation (DOT) certification records for transport vehicles. Other proposed changes include, but are not limited to, adding vapor balancing as a control option for containers, clarifying that cargo tank work practice standards only apply to tanks equipped with vapor collection equipment, allowing an alternative ASTM International method to Method 18 (40 CFR part 60, Appendix A), four new definitions and cross-referencing of definitions to other regulations, and removing the ''1-hour'' requirement for offsite records. In addition, today's proposed amendments would correct typographical errors, including incorrect cross-references.

A. How Are Definitions Being Revised?

1. *Total Actual Annual Facility-Level Organic Liquid Loading Volume.* One of the criteria for determining whether a transfer rack is to be controlled or not is the annual loading volume of organic liquids at the facility. Absent from the OLD NESHAP are a definition of ''total actual annual facility-level organic liquid loading volume'' and guidance on how to calculate this value. Therefore, we are proposing to add a definition to the final rule and include in the definition a detailed explanation of how to calculate this value for existing facilities and for new facilities.

In proposing this definition, we note two important items. First, the loading volume considers both transfers made between facilities (for transport out of the facility) and transfers made within a facility (for transport within the facility). This clarifies the intent to consider both types of transfers and corrects an error in items 7 through 10 in Table 2 to 40 CFR part 63, subpart EEEE, when the phrase ''out of the facility'' is used. Second, we are proposing to calculate this value as an average over 3 years of annual loading volumes rather than a single annual value. Allowing a facility to average its loading volume over 3 years is reasonable because this would smooth out fluctuations in loading volumes from year to year that might arise due to temporary situations, thereby eliminating different control requirement outcomes caused by temporary changes below or above the throughput cut-off level that would occur with an annual time period. The proposed 3-year average should also allow facilities sufficient lead time in tracking their loading volume to assess the need for controlling transfer racks should the loading volume exceed the criterion's trigger value.

We are proposing the methodology to be used to calculate this value as an average using 3 years of actual loading volume data. The value would be recalculated once per year. For example, a facility would collect loading volume data for years 1, 2, and 3. At the end of year 3, the three annual values would be averaged to calculate the total actual annual facility-level organic liquid loading volume. This value would represent the loading volume used in determining whether the transfer racks at the facility would need to be controlled. At the end of year 4, the facility would calculate the annual average using the loading volume data for years 2, 3, and 4. This pattern would repeat itself each year.

For existing affected sources, we are proposing that this calculation be made on a calendar year basis, starting January 1, 2004. If an existing affected source does not have actual loading volume data for the time period from January 1, 2004, through February 2, 2004, (the time period before the effective date of the OLD NESHAP), the owner or operator would calculate loading volume for that period based on the average loading volume from February 3, 2004, through December 31, 2004.

For new affected sources, we are proposing the option of making this calculation beginning on the actual startup date of the facility or on the first day of the calendar month following the month in which actual startup occurs. For example, if actual startup is March 13, 2005, the facility has the option of either using March 13 to March 12 as its annual basis or April 1 to March 31 as its annual basis. We are also proposing that once owners or operators select the beginning date to start their calculations, no changes can be made thereafter.

New affected sources are required to be in compliance at startup. In order for a new affected source to be in compliance, the owner or operator must make a determination as to which transfer racks need to be controlled. However, new affected sources will not have actual loading volume data at their startup to make this determination. Therefore, we are proposing that new facilities make projections as to the facility-level loading volume for the first 3 years of operation. Based on this forecast, the owner or operator would determine the total actual annual facility-level organic liquid loading volume and use the result to determine which transfer racks need to be controlled at startup.

At the end of the first year following the date selected to begin the calculation, the owner or operator would calculate the 3-year average using the first year's actual loading volume plus a new forecast of the loading volume for the next 2 years. At the end of the second year, the owner or

operator would calculate its 3-year average using the first 2 years' actual loading volume data plus a new forecast of loading for the next year. At the end of the third year, and for all subsequent years, following startup, the owner or operator would have actual loading volume data for 3 years and would no longer need to forecast loading volumes. The owner or operator would use the actual loading volume data for the first 3 years to make this calculation, and then use the ''rolling'' 3 years of data for future calculations, as would owners and operators of existing affected sources.

2. *Transfer Rack.* In the OLD NESHAP, the definition of transfer rack includes the concept of loading of organic liquids into transport vehicles. Unfortunately, there were two shortcomings with the definition.

First, the definition is inconsistent with how the term is used when describing the affected sources. As stated in the OLD NESHAP, 40 CFR part 63, subpart EEEE applies to (emphasis added): ''transfer racks at which organic liquids are *loaded into or unloaded out* of transport vehicles and/or containers'' (see 40 CFR 63.2338(b)(2)) and ''all transport vehicles while they are *loading or unloading* organic liquids at transfer racks'' (see 40 CFR 63.2338(b)(4)). However, in the definition section of the OLD NESHAP, transfer rack is defined in part (emphasis added) as ''a single system used to *load* organic liquids into transport vehicles.'' The definition of transfer rack, by limiting itself to only the loading of liquids, creates an inconsistency with the use of the term when defining the affected source. In the affected source, transfer racks can be loading *or unloading* organic liquids (emphasis added).

The intent of the rule is that, for purposes of defining the affected source, both loading and unloading racks are to be included. For purposes of control requirements, however, the OLD NESHAP apply only to racks when they are loading organic liquids into transport vehicles or, for new sources only, containers.

To accomplish this intent, we are proposing to modify the definition of ''transfer rack'' to also refer to unloading. Because of this proposed change to the definition of transfer rack, we are also proposing numerous language changes to ensure that the rule language is specific that control is required for transfer racks when they are loading organic liquids into cargo tanks or when they are filling containers.

For new sources, transfer racks may also load containers, which the definition failed to mention. Therefore, we are proposing to add containers to the definition of transfer rack.

3. *Cross Reference to Other Rules.* The OLD NESHAP use several terms that are defined in other subparts, but not directly in the OLD NESHAP. We are proposing to revise the introductory paragraph at 40 CFR 63.2406 to cross-reference the other 40 CFR part 63 subparts that are referenced in the OLD NESHAP. This is being done by citing the specific definition sections of the applicable subparts in the same manner we cited the definitions found in 40 CFR 63.2 of the General Provisions. This change would not make the OLD NESHAP any more or less stringent, but simply clarifies the intent to use those definitions in the other subparts as appropriate and necessary to implement the OLD NESHAP.

We are proposing to add four new definitions—bottoms receivers, surge control vessels, low-throughput transfer racks, and high-throughput transfer racks—to the OLD NESHAP. These terms are added because their definitions in the cross-referenced rules do not apply to the OLD NESHAP and, therefore, needed to be added.

We are proposing to add a sentence to the introductory paragraph of 40 CFR 63.2406 to clarify a potential conflict in priority between the OLD NESHAP (subpart EEEE) and 40 CFR part 63, subpart PP. The introductory language in the OLD NESHAP and in subpart PP both claim that the terms as defined within each subpart shall have precedent over any other definition for those same terms in another subpart. We are proposing to amend the language in the OLD NESHAP to specifically override the language in subpart PP such that the terms ''container'' and ''safety device'' shall have the meaning given them in the OLD NESHAP notwithstanding the introductory language in 40 CFR 63.921.

We do not believe any other changes to the definition section of the OLD rule are necessary. When complying with the OLD NESHAP, an owner or operator may be required to comply with another subpart (*e.g.*, with 40 CFR part 63, subpart UU, for equipment leak components). If a term needs to be defined in order to comply with subpart UU and that term is not defined in the OLD NESHAP, then the owner or operator would use the definition found in subpart UU. In summary, when complying with the OLD NESHAP, if a term is used and it is not defined in the OLD NESHAP, then that term has the meaning assigned it in the 40 CFR part 63 subpart that is being complied with.

4. *Startup and Shutdown.* In 40 CFR 63.2406, we are proposing to clarify the definitions of ''startup'' and ''shutdown'' by adding the phrase ''(other than as part of normal operation for a batch-type operation), including equipment'' after ''or portion thereof.''

The proposed wording for ''shutdown'' would now read: ''*Shutdown* means the cessation of operation of an OLD affected source, or portion thereof (other than as part of normal operation of a batch-type operation), including equipment required or used to comply with this subpart, or the emptying and degassing of a storage tank. Shutdown as defined here includes, but is not limited to, events that result from periodic maintenance, replacement of equipment, or repair.''

The proposed wording for ''startup'' would now read: ''*Startup* means the setting in operation of an OLD affected source, or portion thereof (other than as part of normal operation of a batch-type operation), for any purpose. Startup also includes the placing in operation of any individual piece of equipment required or used to comply with this subpart including, but not limited to, control devices and monitors.''

The normal operation of transfer racks is such that at times a transfer rack is transferring liquids and at other times it is not transferring liquids. We received questions about whether instances in which transfer racks begin or cease transferring liquids as part of normal ''batch'' type operations would constitute ''startup'' or ''shutdown'' episodes. We never intended such instances to be interpreted in this way. Therefore, to avoid misunderstandings, we are proposing to revise the definitions of startup and shutdown to make it clear that the commencement or cessation of actual transfer of liquids through a transfer rack as part of batch-type operations does not constitute a ''startup'' or a ''shutdown'' of the transfer rack within the meaning of the OLD NESHAP. As a result of this proposed change, emission sources (*i.e.*, transfer racks) that are subject to the OLD NESHAP, but for which control is not required, would not be required to minimize emissions during such periods as would be required under the General Provisions (*i.e.*, 40 CFR 63.11(e)(1)) and would not be required to be addressed in a facility's startup, shutdown, and malfunction plan (*i.e.*, 40 CFR 63.11(e)(3)). Likewise, emission sources subject to the OLD NESHAP for which control is required would remain subject to the control requirements during routine commencement or

cessation of operations that are part of normal batch-type operations.

These proposed changes would also make the OLD NESHAP consistent with other recent EPA standards that recognize cessation of operations that is part of the normal characteristics of batch operations and batch-type operations is not considered ''startup'' or ''shutdown'' for purposes of startup, shutdown, and malfunction plans. Rather than revising the definitions of ''startup'' and ''shutdown'' to achieve this purpose, an alternative may be to simply amend Table 12 to 40 CFR part 63, subpart EEEE, to clarify that the duty to minimize emissions during periods of startup, shutdown and malfunction, in 40 CFR 63.11(e)(1) of the General Provisions, does not apply to emissions sources that are part of the OLD affected source but are not subject to emissions control requirements. EPA requests comment on this alternative approach.

5. *Vapor Balancing System.* We are proposing revisions to this definition to include reference to containers. We are proposing to extend the option of vapor balancing systems to containers. We are also proposing to clarify that vapors need to be ''directly conveyed'' to a ''chemical manufacturing process unit,'' and are, thus, proposing to replace ''compresses the vapors for feeding into a chemical process manufacturing unit'' with ''compresses the vapor for direct conveyance to a chemical manufacturing unit.''

6. *Vapor Collection System.* We are proposing to add reference to the conveyance of vapors displaced during the loading of containers to this definition. The OLD NESHAP inadvertently do not contain this reference, even though the use of control devices to control emissions from the filling of containers is a control option.

B. How Are Control Options Being Revised?

1. *Storage Tanks with High Vapor Pressure Liquids.* Between proposal and promulgation, we added the equivalent control option of routing emissions to a fuel gas system or back to a process, per 40 CFR part 63, subpart SS, for storage tanks storing liquids with vapor pressures less than 11.1 psia. The OLD NESHAP did not extend this option to storage tanks storing liquids with vapor pressures greater than 11.1 psia. This was not an intentional exclusion. Most, but not all, tanks storing liquids with high vapor pressure are pressurized. Pressurized tanks do not have emissions. However, non-pressurized tanks storing liquids with high vapor pressures have the same types of emissions (working and/or breathing losses) as those tanks storing liquids with lower vapor pressures. In these instances, the controls that are applicable to the tanks storing the liquids with vapor pressures less than 11.1 psia are applicable to tanks storing liquids with vapor pressures greater than 11.1 psia. Therefore, we are proposing revisions, which appear in Tables 2 and Table 4 to 40 CFR part 63, subpart EEEE, to allow these storage tanks the same equivalent option as those storing lower vapor pressure liquids.

2. *Overlap of Storage Tank Rules.* The Agency is proposing to revise the manner in which the OLD NESHAP address the overlap of the OLD NESHAP with 40 CFR part 60, subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984) and with 40 CFR part 61, subpart Y (National Emission Standard for Benzene Emissions from Benzene Storage Vessels). In the OLD NESHAP, 40 CFR 63.2396(a), storage tanks that are subject to the OLD NESHAP requirements (which reference 40 CFR part 63, subpart WW) and either of these other two rules are required to comply with the requirements of the OLD NESHAP when the tank is in OLD operation.

Another recent rule (*i.e.,* the Miscellaneous Organic NESHAP, or MON) promulgated by the Agency handles this overlap in a different fashion. In the MON, we allow facilities with storage tanks subject to both the MON and either of the other two rules noted above to be considered in compliance with the MON when they are in compliance with either of the other two rules.

In assessing whether this approach was appropriate for the OLD NESHAP, we reviewed the OLD data used to establish the MACT floor and compared the requirements of the OLD NESHAP with 40 CFR part 60, subpart Kb, and 40 CFR part 61, subpart Y. Based on that review, 40 CFR part 60, subpart Kb, is equal to or more stringent than the MACT floor established for storage tanks. Therefore, allowing a facility to comply with 40 CFR part 60, subpart Kb, or, for that matter, with 40 CFR part 61, subpart Y, would not be less stringent than the MACT floor for the OLD NESHAP and provides the same level of control as that found in 40 CFR part 63, subpart WW. We, therefore, are proposing to revise the wording in 40 CFR 63.2396(a) to allow facilities to comply with 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, for these storage tanks. However, we are not proposing to revise the 5-year recordkeeping requirement for OLD storage tanks. This is a longer timeframe than found in 40 CFR part 60, subpart Kb, or in 40 CFR part 61, subpart Y, which have a 2-year timeframe for keeping records. Finally, we are not proposing to revise the OLD monitoring, recordkeeping, and reporting requirements for OLD storage tanks that are controlled using closed vent systems (which is consistent with the MON). In sum, we have determined that the MACT floor is being maintained, and there is no loss in stringency as the result of the proposed changes.

3. *Transfer Racks.* While we believe our intent is clear in 40 CFR 63.2346(b) as to which transfer racks are to be controlled, the language is not accurate. The organic hazardous air pollutant (HAP) criterion is applied to the individual rack, but the ''facility-level organic liquid loading volume'' criterion is not. The loading volume criterion is based on the volume for all transfer racks and not for the individual transfer rack. Therefore, we are proposing to revise the introductory text as follows:

> ''For each transfer rack that is part of the collection of transfer racks that meets the total actual annual facility-level organic liquid loading volume criterion for control in Table 2 to this subpart, items 7 through 10, you must comply with paragraph (b)(1), (2), or (3) of this section for each arm in the transfer rack loading an organic liquid whose organic HAP content meets the organic HAP criterion for control in Table 2 to this subpart, items 7 through 10.''

4. *Changes in OLD Loading Volume.* Over time, the OLD loading volume at a facility may increase or decrease. These changes may be large enough that the 3-year rolling average creates a situation where a facility that is controlling its transfer racks no longer meets the criteria for control, or where a facility that is not controlling its transfer racks now meets the criteria for control. The OLD NESHAP does not explicitly indicate the control requirements when a facility encounters such situations. We are, therefore, proposing language to specifically indicate the control requirements and timing when such changes occur.

We are proposing that if a facility is controlling its transfer racks, but the loading volume decreases at a later date to such a level that the criteria for control are no longer being met, compliance with the control requirements specified in 40 CFR 63.2386(b)(1), (2), or (3) is no longer required until such time that the total

actual facility-wide organic loading volume increases to a level requiring control.

We are also proposing that if a facility is not controlling its transfer racks, but the loading volume increases at a later date to such a level that the criteria for control is now met, compliance with the control requirements specified in 40 CFR 63.2386(b)(1), (2), or (3) is required immediately, except as may be provided for existing sources only.

5. *Transfer Racks and Table 2 Emission Limits.* The OLD NESHAP require a transfer rack to comply with each of the three emission limitations identified in item 7 in Table 2 to 40 CFR part 63, subpart EEEE. These emission limitations are: (1) Reduce emissions by 98 percent reduction or to 20 ppmv; (2) vent emissions through a closed vent system to any combination of control devices in compliance with 40 CFR part 63, subpart SS; and (3) meet one of two work practice standards specified in Table 4 to subpart EEEE. Requiring a facility to comply with all three emission limitations was not our intent and further is not technically feasible. To correct this, we are proposing to combine the first two emission limitations into a single emission limitation (which we incorrectly split into two limitations between proposal and promulgation and which would now parallel the correct construct of item 6 in Table 2 to subpart EEEE) and clarify that a facility is to comply with either 98 percent reduction or 20 ppmv emission limitation or one of the two work practice standards.

6. *Transfer Racks and Routing Emissions to a Process.* The OLD NESHAP allow a facility the option to comply with 40 CFR part 63, subpart SS, which allows a facility to route emissions to fuel gas systems or back to *a* process (emphasis added). The OLD NESHAP inadvertently use the phrase ''the process,'' which has the potential effect of unnecessarily limiting a facility's option for routing vent gases. Therefore, we are proposing to use the phrase ''a process'' in conjunction with this compliance option.

7. *Vapor balancing and containers.* The OLD NESHAP do not allow vapor balancing as a control option for the filling of containers. However, vapor balancing can be an effective control option for the filling of containers. Therefore, we are proposing vapor balancing, under certain conditions, as a control option for the filling of containers, identifying applicability for existing sources and new sources and revising the definitions of ''vapor balancing systems'' and ''vapor collection system.''

8. *Vapor balancing and routing of displaced vapors.* The control option of vapor balancing for transfer racks is stated inconsistently in the OLD NESHAP in 40 CFR 63.2346(b)(3) and in Table 7 to 40 CFR part 63, subpart EEEE. We are proposing to resolve this inconsistency by revising 40 CFR 63.2346(b)(3) to include routing of vapors to a process unit.

The OLD NESHAP direct that the routing of the displaced vapors is to be made to the ''appropriate storage tank.'' We are proposing to revise this phrase to now read ''to the storage tank from which the liquid being loaded originated.'' We believe this change makes the rule clearer.

9. *Cargo Tank Work Practice Standards.* The cargo tank work practices in the OLD NESHAP (see 40 CFR 63.2346(d) and items 4 and 5 in Table 4 to 40 CFR part 63, subpart EEEE) create a technological inconsistency—requiring vapor tightness on transport vehicles being loaded at transfer racks that were not being controlled. We are proposing to correct this error by requiring vapor tightness only on transport vehicles being loaded at transfer racks that are being controlled. The proposed amendment would affect both cargo tanks with and cargo tanks without vapor collection equipment.

C. How Are My Notification, Recordkeeping, and Reporting Requirements Being Revised?

1. *Emission sources not subject to control.* We are proposing to overhaul the OLD NESHAP notification, recordkeeping, and reporting requirements for emission sources not subject to control. The proposed amendments are found mostly in a proposed new section, 40 CFR 63.2343, with some additional changes needed in other parts of the rule. The OLD NESHAP currently identifies requirements for these sources in 40 CFR 63.2346(h) and 63.2386(c)(9). Under today's proposed amendments, 40 CFR 63.2346(h) would be deleted and ''reserved,'' because it is no longer needed. With regard to 40 CFR 63.2386(c)(9), the proposed amendments would revise (as described below) and redesignate the paragraph (as proposed 40 CFR 63.2386(c)(10)(i)).

In today's proposed rulemaking, we are proposing to exempt all emission sources in the affected source not requiring control under the OLD NESHAP from notification, recordkeeping, and reporting requirements, except as otherwise specified in the proposed new 40 CFR 63.2343. The proposed exceptions would apply to storage tanks and transfer racks.

Storage tanks and transfer rack that would never be required to be controlled. For storage tanks and transfer racks that would never be required to be controlled under the OLD NESHAP as they currently apply, we are proposing that owners and operators submit an Initial Notification identifying such emission sources; and keep documentation verifying the ''no control'' status be kept up-to-date by the owner or operator. By the phrase ''up-to-date,'' we mean that such emission sources at a facility are identified in the documentation regardless of when the documentation was last compiled. Further, this documentation needs to be up-to-date only as it pertains to emission sources that are still physically present at a facility.

The proposed amendments would also have the effect of eliminating the requirement for listing these sources in the NOCS, first compliance report, and subsequent compliance reports. Once the Initial Notification has been submitted, we believe it is unnecessary to continue to identify such emission sources in NOCS, first compliance report, and subsequent compliance reports as long as owners and operators keep documentation that such emission sources would never require control under the OLD NESHAP.

Storage tanks and transfer racks that could be required to be controlled, but for which control is not currently required. For storage tanks and transfer racks that could be required to be controlled, but for which control is not currently required, we are proposing changes to notification and reporting and to documentation.

We believe that it is important for an owner or operator to identify those storage tanks and transfer racks for which control could be required if and when the HAP content or throughput changes, even if control is not required at the time either the NOCS of the first compliance report is filed. Therefore, we are proposing owners and operators submit a list of all transfer racks (except those at which only unloading of organic liquids occurs) and of tanks greater than or equal to 18.9 cubic meters (5,000 gallons) that are part of the affected source but are not subject to any of the emission limitations, operating limits, or work practice standards of 40 CFR part 63, subpart EEEE (see proposed 40 CFR 63.2386(c)(10)(i)).

Owners and operators would be required to submit this list with either the NOCS or the first Compliance report, whichever is submitted first.

After the NOCS or a Compliance report has been submitted, changes to a storage tank or transfer rack may have been made that affect its compliance status (e.g., an uncontrolled storage tank becomes subject to control). The types of changes that we are proposing to be reported are:

• Any storage tank or transfer rack that became subject to control since the filing of the last Compliance report (see proposed 40 CFR 63.2386(d)(3)). The intent here is to cover any storage tank or transfer rack that existed at the facility when the last Compliance report was filed, but has undergone a change that now subjects the storage tank or transfer rack to control; and any storage tank or transfer rack that was constructed at the facility since the last Compliance report was filed, that is being used (e.g., contains liquid), that is in OLD service and that meets the OLD criteria for control.

• Any storage tank greater than or equal to 18.9 cubic meters (5,000 gallons) and any transfer rack that is part of the affected source, but which are not subject to any of the emission limitations, operating limits, or work practice standards of the OLD NESHAP, that became part of the affected source since the filing of the NOCS or the last Compliance report (see proposed 40 CFR 63.2386(d)(4)). The intent here is to cover any storage tank or transfer rack that was constructed at the facility since the NOCS or the last Compliance report was filed, that is part of the affected source (i.e., is in OLD service), but does not meet any of the criteria for control under the OLD rule; and any storage tank or transfer rack that existed at the facility prior to the filing of the NOCS or last Compliance report that was not in OLD service that is now in OLD service (i.e., is now part of the affected source), but does not meet any of the criteria for control under the OLD NESHAP.

We are proposing that such changes be reported in either the NOCS or the first Compliance report (depending on which was submitted first (see proposed 40 CFR 63.2382(d)(2)(viii) and 63.2386(c)(10(ii)) and in subsequent Compliance reports whenever such changes occur after the filing of the last Compliance report (see proposed 40 CFR 63.2386(d)(3) and (4)).

Proposed 40 CFR 63.2343 specifies the documentation that would be required for these emission sources. We are also proposing to modify 40 CFR 63.2390, What records must I keep?, to clarify the applicability of proposed 40 CFR 63.2343 and 40 CFR 63.2390 to all emission sources subject to the OLD NESHAP.

For storage tanks that could be subject to control, but are not required to be controlled, we are proposing that documentation be kept that demonstrates the status of the tank, including a record of the annual average true vapor pressure of the organic liquid being stored in each such tank.

For transfer racks that could be subject to control, but are not required to be controlled, we are proposing that documentation be kept that demonstrates the status of the transfer rack.

General Provisions. For all emission sources for which control is not required, we are proposing to amend the applicability of the General Provisions in two ways. First, we are proposing to modify the applicability of 40 CFR 63.6(e)(3) by not requiring startup, shutdown, and malfunction (SSM) plans for these emission sources because SSM plans apply to control devices used to comply with regulations, and these emission sources are not required to be controlled.

Second, in the proposed new 40 CFR 63.2343 for emission sources not required to be controlled, we specifically identify those changes that require a facility to submit information and are proposing to modify the applicability of 40 CFR 63.9(j) such that it would not apply to these emission sources.

2. *Transport Vehicles and DOT Certifications.* In the OLD NESHAP, we require owners or operators to keep documentation on the DOT certifications for transport vehicles loaded at their facilities. Other NESHAP allow an alternative to this requirement, which we believe can also be applied to transport vehicles loading organic liquids. This proposed alternative would allow owners and operators to simply record in a number of acceptable methods the verification of DOT certification without actually keeping such documentation (see proposed 40 CFR 63.2390(c)(3)).

3. *Initial Notification of Compliance Status.* The OLD NESHAP allow facilities with multiple control devices to submit a single NOCS and up to 240 days after the compliance date to submit it. To make this provision explicitly clear, we are proposing to revise the applicability of the General Provisions at 40 CFR 63.7(g) and 63.9(h)(1)–(6) in Table 12 to 40 CFR part 63, subpart EEEE, to allow facilities to submit a single initial NOCS with test reports either within 240 days after the compliance date or within 60 days after the completion of the last compliance test demonstrating compliance, whichever occurs first.

4. *Offsite Records.* The OLD NESHAP (see 40 CFR 63.2394(a)) allow facilities to store on-site records ''in electric form at a separate location from the site provided they can be access and printed at the site within 1 hour after a request by the applicable title V permitting authority.'' EPA included the ''1-hour'' requirement at promulgation, but now believes that it is unnecessarily restrictive. Therefore, we are proposing to revise 40 CFR 63.2394(a) by removing the ''1-hour'' requirement and stating explicitly that records kept off-site are to be available for ''expeditious review and inspection.'' We are also proposing to eliminate the provision allowing on-site records to be stored off-site in electronic format because ''expeditious retrieval'' of records stored off-site does not meet the General Provision's requirements that records be stored ''on-site'' for the first 2 years.

5. *Operating Scenarios.* The OLD NESHAP require facilities to identify operating scenarios in the NOCS report and then to update changes to operating scenarios in the semiannual compliance reports. We are proposing to delete ''operating scenarios'' from the OLD NESHAP because the term is not applicable to the OLD source category.

D. How Are Compliance Requirements Being Changed?

1. *Changes in OLD Loading Volume—Compliance Dates.* We are proposing language to clarify when transfer racks must be in compliance when the total actual annual facility-level organic liquid loading volume decreases such that control is no longer required, or when it increases such that control is required (see 40 CFR 63.2342(a)(3) and (b)(3)). For both new and existing sources, we are proposing that a source whose loading volume increases to a level such that control of transfer racks is required, be in compliance with the transfer rack requirements immediately. We are proposing to define ''immediately'' as the first day of the period following the end of the 3-year period triggering the control criteria.

For existing sources, however, we are proposing that owners or operators of existing sources be allowed to request a compliance extension of up to 1 year if the additional time is necessary for the installation of controls. This proposed request for a compliance extension is similar to that provided for under 40 CFR 63.100(l)(4)(ii)(B) of the Hazardous Organic NESHAP. We are also proposing to limit the use of this compliance extension provision to once for each facility (see 40 CFR 63.2342(b)(3)(ii)(I)). That is, once an owner or operator has requested an

extension of compliance for its facility, the owner or operator cannot request such an extension at a later date if changes in loading volume again create a situation in which control of transfer racks is once again required.

2. *ASTM D7420–99*. In the preamble to the OLD NESHAP, we indicated that we had included ASTM D7420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS), as an alternative to Method 18. However, we neglected to add the method to the final rule. Therefore, we are proposing language, in 40 CFR 63.2354(b)(3), adding ASTM D7420–99 as an alternative to Method 18 to determine compliance with the organic HAP or TOC emission limit.

3. *Reformulation*. One of the petitioners requested clarification as to the periodic reporting requirements for a facility that reformulates materials prior to the compliance date, and for a facility that reformulates materials after the compliance date. The reformulation the petitioner is concerned about is where a material that meets the definition of an organic liquid as defined in 40 CFR 63.2402 is reformulated in such a manner that the material no longer meets the definition of an organic liquid.

The OLD NESHAP apply to emission sources when they are in OLD service. If a facility reformulates a material in such a manner that the material no longer is an organic liquid, as defined in 40 CFR 63.2406, the emission source is not in OLD service and, therefore, is neither subject to the OLD NESHAP nor its reporting requirements. If all of the material at a facility were reformulated such that there is no organic liquid at the facility, the entire facility would have no emission sources in organic liquid service and would not be required to meet the periodic compliance reporting requirements. If the facility were to later reformulate the material such that it once again met the definition of organic liquid, then the emission source would be in OLD service and subject to all applicable requirements of the OLD NESHAP, including periodic reporting requirements.

The Agency does not believe that it is necessary to modify the OLD NESHAP to address the specific situations posed by the petitioner. In addition, we do not believe this issue needs to be treated differently if the reformulation occurs prior to or after the compliance date of the final rule.

E. How Is the Affected Source Being Changed?

1. *Containers*. In 40 CFR 63.2338(b)(2) of the OLD NESHAP, we identify ''transfer racks'' as a component of the affected source and identify in that paragraph both ''transport vehicles'' and ''containers'' into which or out of which the liquids are loaded. We then identify, in 40 CFR 63.2338(b)(4), ''transport vehicles'' as a separate component of the affected source. However, we neglected to also identify ''containers'' as a separate component of the affected source. To correct this oversight, we are proposing to add a new paragraph (b)(5) to 40 CFR 63.2338 to identify containers as a separate component of the affected source.

2. *Transport Vehicles*. In 40 CFR 63.2338(b)(4) of the OLD NESHAP, it is unclear as to whether the affected source includes transport vehicles while they are loading or unloading organic liquids at any transfer rack or only at transfer racks subject to the OLD NESHAP. We are proposing to revise 40 CFR 63.2338(b)(4) to state that only those transport vehicles loading or unloading at transfer racks subject to the OLD NESHAP are to be included in the affected source.

3. *Excluded Equipment*. As stated in 40 CFR 63.2338(b), the affected source is composed of storage tanks, transfer racks, equipment leak components, transport vehicles, and containers. The OLD NESHAP, in 40 CFR 63.2338(c), exclude from the affected source three of these five types of equipment—storage tanks, transfer racks, and equipment leak components—under certain conditions (e.g., subject to another 40 CFR part 63 NESHAP, used in special operations, used to conduct maintenance activities). We know of no reason that transport vehicles and containers when used in the same circumstances as the three cited types of equipment should not also be included in these exclusions. Therefore, we are proposing to revise 40 CFR 63.2338(c) accordingly.

4. *Equipment Leak Components*. The OLD NESHAP (see 40 CFR 63.2338(c)(2)) is unclear as to which equipment leak components are to be excluded from the affected source definition. For example, are equipment leak components associated with a pipeline originating offsite that goes directly to a tank subject to the Hazardous Organic NESHAP (HON) part of the affected source? Or, as another example, are equipment leak components associated with a pipeline from a transfer rack subject to the OLD NESHAP that goes to a tank subject to the HON part of the affected source?

To clarify the determination of which equipment leak components are included in the definition of the affected source and which are excluded, we are proposing to revise 40 CFR 63.2338(b)(3) to clearly state that equipment leak components are part of the affected source if they are associated with pipelines that transfer organic liquids directly to and from storage tanks and/or transfer racks, both of which are subject to the OLD NESHAP. Equipment leak components associated with pipelines that connect two storage tanks, two transfer racks, or a storage tank and a transfer rack are subject to the OLD NESHAP only if both storage tanks, both transfer racks, or both the storage tank and transfer rack are subject to the OLD NESHAP. These three scenarios comprise the situations in which equipment leak components associated with pipelines are part of the OLD affected sources.

Lastly, because the proposed revisions to 40 CFR 63.2338(b)(3) include all those equipment leak components that we intend to include, we do not believe there is any need to have an equipment leak component exclusion. Therefore, we are proposing to delete 40 CFR 63.2338(c)(2) from the OLD NESHAP.

5. *Coke by-product Plants*. One of the petitioners requested clarification as to the applicability of the OLD NESHAP to coke by-product plants. On January 30, 2001 (66 FR 8220), EPA deleted coke by-product plants from the list of major and area sources of HAP required by CAA section 112(c)(1). Consequently, 40 CFR part 63 MACT standards promulgated under CAA section 112(d), such as the OLD NESHAP, would not apply to the deleted coke by-product plant source category. Moreover, as EPA explained in 2001, coke by-product plants remain subject to the pre-existing NESHAP for benzene emissions from coke by-product recovery plants at 40 CFR part 61, subpart L. See 66 FR at 8222. EPA is not proposing any changes to the OLD NESHAP in order to clarify this issue, as it is unnecessary to do so. The result follows from EPA's previous action in 2001 deleting the coke by-product plant source category.

F. Miscellaneous Edits

There are numerous edits being proposed to address typographical errors and oversights in the OLD NESHAP. These edits make clearer our intent, correct punctuation, or change cross-references because of the other changes being proposed in today's rulemaking; they do not affect the stringency of the final rule or its

enforceability. These edits may be found in the EDOCKET (see **ADDRESSES** section).

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), the EPA must determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a ''non-significant regulatory action'' within the meaning of the Executive Order and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The final rule required owners and operators to list sources not subject to control in the first and subsequent compliance reports and to keep appropriate documentation. The final rule applied these requirements across-the-board for all emission sources not requiring control and, in general, was not specific as to what recordkeeping is required. Under the proposed amendments, we are clarifying how these provisions would apply to those emission sources for which control would never be required and to those emission sources for which control could be required, but is not currently required. In addition, we are identifying the specific circumstances under which listing in subsequent Compliance reports would be required for sources for which control is not required rather than requiring all previously identified sources to be re-listed. Further, we are narrowing the applicability of certain sections of the General Provisions for sources for which control is not required because the proposed amendments make such application of those sections in the General Provisions unnecessary. Thus, in sum, the proposed amendments are not adding new information collection burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 63, subpart EEEE under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060 0539, EPA ICR number 1963. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed amendments on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.20; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, because the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

Today's proposed amendments will not impose any new requirements on small entities, and will reduce some of the burden established under the promulgated rule. We have therefore concluded that today's proposed amendments will relieve regulatory burden by, for example, exempting all emission sources in the affected source not requiring control under the OLD NESHAP from notification, recordkeeping, and reporting requirements, except as otherwise specified for all affected small entities; excluding from the affected source three types of equipment—storage tanks, transfer racks, and equipment leak components—under certain conditions that are used in special operations and to conduct maintenance activities; and proposing that owners or operators of existing sources be allowed to request a compliance extension of up to 1 year if the additional time is necessary for the installation of controls. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potential affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the proposed amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in aggregate, or the private sector in any 1 year, nor do the proposed amendments significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to the proposed amendments.

E. Executive Order 13132: Federalism

Executive Order 13132, (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

Today's proposed amendments do not have federalism implications. The proposed amendments correct typographical errors, clarify provisions, or eliminate unnecessary recordkeeping and reporting requirements for emission sources for which there are no control requirements. These changes do not modify existing or create new responsibilities among EPA Regional Offices, States, or local enforcement agencies. The proposed amendments will not have new substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to the proposed amendments.

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

Executive Order 13175 (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The proposed amendments do not have tribal implications as specified in Executive Order 13175. They would not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to these proposed amendments.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today's proposed amendments are not subject to Executive Order 13045 because they do not establish an environmental standard intended to mitigate health or safety risks.

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

The proposed rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. In the preamble to the OLD NESHAP, we indicated that we had revised the rule to include three voluntary consensus methods, including ASTM D7420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS), as an alternative to Method 18. While we did

include two of the three voluntary consensus methods, we neglected to add ASTM D7420–99 to the final rule. Therefore, we are proposing language adding ASTM D7420–99 as an alternative to Method 18 to determine compliance with the organic HAP or TOC emission limit under certain circumstances.

List of Subjects in 40 CFR Part 63

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

Dated: October 31, 2005.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

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

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

2. Section 63.14 is amended by revising paragraph (b)(29) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(29) ASTM D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for §§ 63.2354, 63.5799, and 63.5850.

* * * * *

Subpart EEEE—[Amended]

3. Section 63.2338 is amended by:

a. Revising paragraphs (b)(3) and (b)(4);

b. By adding a new paragraph (b)(5);

c. Revising paragraph (c)(1);

d. Removing paragraph (c)(2) and redesignating paragraphs (c)(3) and (c)(4) as (c)(2) and (c)(3), respectively; and

e. Revising newly designated paragraphs (c)(2) and (c)(3) to read as follows:

§ 63.2338 What parts of my plant does this subpart cover?

* * * * *

(b) * * *

(3) All equipment leak components in organic liquids service that are associated with:

(i) Storage tanks storing organic liquids;

(ii) Transfer racks loading or unloading organic liquids;

(iii) Pipelines that transfer organic liquids directly between two storage tanks that are subject to this subpart;

(iv) Pipelines that transfer organic liquids directly between a storage tank subject to this subpart and a transfer rack subject to this subpart; and

(v) Pipelines that transfer organic liquids directly between two transfer racks that are subject to this subpart.

(4) All transport vehicles while they are loading or unloading organic liquids at transfer racks subject to this subpart.

(5) All containers while they are loading or unloading organic liquids at transfer racks subject to this subpart.

(c) * * *

(1) Storage tanks, transfer racks, transport vehicles, containers, and equipment leak components that are part of an affected source under another 40 CFR part 63 national emission standards for hazardous air pollutants (NESHAP).

(2) Non-permanent storage tanks, transfer racks, transport vehicles, containers, and equipment leak components when used in special situation distribution loading and unloading operations (such as maintenance or upset liquids management).

(3) Storage tanks, transfer racks, transport vehicles, containers, and equipment leak components when used to conduct maintenance activities, such as stormwater management, liquid removal from tanks for inspections and maintenance, or changeovers to a different liquid stored in a storage tank.

* * * * *

4. Section 63.2342 is amended by:

a. Revising paragraph (a) introductory text;

b. Adding paragraph (a)(3);

c. Revising paragraph (b)(1);

d. Adding paragraph (b)(3); and

e. Revising paragraph (d) to read as follows:

§ 63.2342 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to the schedule identified in paragraph (a)(1), (2), or (3) of this section, as applicable.

* * * * *

(3) If, after startup of a new affected source, the total actual annual facility-level organic liquid loading volume at that source exceeds the criteria for control in Table 2 to this subpart, items 9 and 10, the owner or operator must comply with the transfer rack requirements specified in § 63.2346(b) immediately; that is, be in compliance the first day of the period following the end of the 3-year period triggering the control criteria.

(b)(1) If you have an existing affected source, you must comply with the emission limitations, operating limits, and work practice standards for existing affected sources no later than February 5, 2007, except as provided in paragraphs (b)(2) and (3) of this section.

* * * * *

(3)(i) If an addition or change other than reconstruction as defined in § 63.2 is made to an existing affected facility that causes the total actual annual facility-level organic liquid loading volume to exceed the criteria for control in Table 2 to this subpart, items 7 and 8, the owner or operator must comply with the transfer rack requirements specified in § 63.2346(b) immediately; that is, be in compliance the first day of the period following the end of the 3-year period triggering the control criteria.

(ii) If the owner or operator believes that compliance with the transfer rack emission limits cannot be achieved immediately, as specified in paragraph (b)(3)(i) of this section, the owner or operator may submit a request for a compliance extension, as specified in paragraphs (b)(3)(ii)(A) through (I) of this section. Subject to paragraph (b)(3)(ii)(B) of this section, until an extension of compliance has been granted by the Administrator (or a State with an approved permit program) under this paragraph (b)(3)(ii), the owner or operator of the transfer rack subject to the requirements of this section shall comply with all applicable requirements of this subpart. Advice on requesting an extension of compliance may be obtained from the Administrator (or the State with an approved permit program).

(A) *Submittal.* The owner or operator shall submit a request for a compliance extension to the Administrator (or a State, when the State has an approved 40 CFR part 70 permit program and the source is required to obtain a 40 CFR part 70 permit under that program, or a State, when the State has been delegated the authority to implement and enforce the emission standard for that source) seeking an extension allowing the source up to 1 additional year to comply with the transfer rack standard, if such additional period is necessary for the installation of controls. The owner or operator of the affected source who has requested an extension of compliance under this paragraph (b)(3)(ii)(A) and who is otherwise required to obtain a title V permit shall apply for such permit, or apply to have the source's

title V permit revised to incorporate the conditions of the extension of compliance. The conditions of an extension of compliance granted under this paragraph (b)(3)(ii)(A) will be incorporated into the affected source's title V permit according to the provisions of 40 CFR part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever are applicable.

(B) *When to submit.* (*1*) Any request submitted under paragraph (b)(3)(ii)(A) of this section must be submitted in writing to the appropriate authority no later than 120 days prior to the affected source's compliance date (as specified in paragraph (b)(3)(i) of this section), except as provided for in paragraph (b)(3)(ii)(B)(2) of this section. Nonfrivolous requests submitted under this paragraph (b)(3)(ii)(B)(*1*) will stay the applicability of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the date of denial.

(*2*) An owner or operator may submit a compliance extension request after the date specified in paragraph (b)(3)(ii)(B)(1) of this section provided the need for the compliance extension arose after that date, and before the otherwise applicable compliance date and the need arose due to circumstances beyond reasonable control of the owner or operator. This request must include, in addition to the information required in paragraph (b)(3)(ii)(C) of this section, a statement of the reasons additional time is needed and the date when the owner or operator first learned of the problems. Nonfrivolous requests submitted under this paragraph (b)(3)(ii)(B)(*2*) will stay the applicability of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the original compliance date.

(C) *Information required.* The request for a compliance extension under paragraph (b)(3)(ii)(A) of this section shall include the following information:

(*1*) The name and address of the owner or operator and the address of the existing source if it differs from the address of the owner or operator;

(*2*) The name, address, and telephone number of a contact person for further information;

(*3*) An identification of the organic liquid distribution operation and of the specific equipment for which additional compliance time is required;

(*4*) A description of the controls to be installed to comply with the standard;

(*5*) Justification for the length of time being requested; and

(*6*) A compliance schedule, including the date by which each step toward compliance will be reached. At a minimum, the list of dates shall include:

(*i*) The date by which on-site construction, installation of emission control equipment, or a process change is planned to be initiated;

(*ii*) The date by which on-site construction, installation of emission control equipment, or a process change is to be completed; and

(*iii*) The date by which final compliance is to be achieved.

(D) *Approval of request for extension of compliance.* Based on the information provided in any request made under paragraph (b)(3)(ii)(C) of this section, or other information, the Administrator (or the State with an approved permit program) may grant an extension of compliance with the transfer rack emission standard, as specified in paragraph (b)(3)(ii) of this section. The extension will be in writing and will—

(*1*) Identify each affected source covered by the extension;

(*2*) Specify the termination date of the extension;

(*3*) Specify the dates by which steps toward compliance are to be taken, if appropriate;

(*4*) Specify other applicable requirements to which the compliance extension applies (e.g., performance tests);

(*5*) Specify the contents of the progress reports to be submitted and the dates by which such reports are to be submitted, if required pursuant to paragraph (b)(3)(ii)(E) of this section.

(*6*) Under paragraph (b)(3)(ii) of this section, specify any additional conditions that the Administrator (or the State) deems necessary to assure installation of the necessary controls and protection of the health of persons during the extension period.

(E) *Progress reports.* The owner or operator of an existing source that has been granted an extension of compliance under paragraph (b)(3)(ii)(D) of this section may be required to submit to the Administrator (or the State with an approved permit program) progress reports indicating whether the steps toward compliance outlined in the compliance schedule have been reached.

(F) *Notification of approval or intention to deny.* (*1*) The Administrator (or the State with an approved permit program) will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (b)(3)(ii) of this section. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application; that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. Failure by the Administrator to act within 30 calendar days to approve or disapprove a request submitted under paragraph (b)(3)(ii) of this section does not constitute automatic approval of the request.

(*2*) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(*3*) Before denying any request for an extension of compliance, the Administrator (or the State with an approved permit program) will notify the owner or operator in writing of the Administrator's (or the State's) intention to issue the denial, together with:

(*i*) Notice of the information and findings on which the intended denial is based; and

(*ii*) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator (or the State) before further action on the request.

(*4*) The Administrator's final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(G) *Termination of extension of compliance.* The Administrator (or the State with an approved permit program) may terminate an extension of compliance at an earlier date than specified if any specification under paragraph (b)(3)(ii)(D)(*3*) or (*4*) of this section is not met. Upon a determination to terminate, the

Administrator will notify, in writing, the owner or operator of the Administrator's determination to terminate, together with:

(*1*) Notice of the reason for termination; and

(*2*) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the determination to terminate, additional information or arguments to the Administrator before further action on the termination.

(*3*) A final determination to terminate an extension of compliance will be in writing and will set forth the specific grounds on which the termination is based. The final determination will be made within 30 calendar days after presentation of additional information or arguments, or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(H) The granting of an extension under this section shall not abrogate the Administrator's authority under section 114 of the Clean Air Act.

(I) *Limitation on use of compliance extension.* The owner or operator may request an extension of compliance under the provisions specified in paragraph (b)(3)(ii) of this section only once for each facility.

* * * * *

(d) You must meet the notification requirements in §§ 63.2343 and 63.2382(a), as applicable, according to the schedules in § 63.2382(a) and (b)(1) through (3) and in subpart A of this part. Some of these notifications must be submitted before the compliance dates for the emission limitations, operating limits, and work practice standards in this subpart.

5. Section 63.2343 is added to subpart EEEE to read as follows:

§ 63.2343 What are my requirements for emission sources not requiring control?

This section establishes the notification, recordkeeping, and reporting requirements for emission sources identified in § 63.2338 that do not require control under this subpart (i.e., under paragraphs (a) through (e) of § 63.2346). Such emission sources are not subject to any other notification, recordkeeping, or reporting sections in this subpart, including § 63.2350(c), except as indicated in paragraphs (a) through (d) of this section.

(a) For each storage tank subject to this subpart having a capacity of less than 18.9 cubic meters (5,000 gallons) and for each transfer rack subject to this subpart that only unloads organic liquids (i.e., no organic liquids are loaded at any of the transfer racks), you must keep documentation that verifies that each storage tank and transfer rack identified in paragraph (a) of this section is not required to be controlled. The documentation must be kept up-to-date (i.e., all such emission sources at a facility are identified in the documentation regardless of when the documentation was last compiled) and must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form in a separate location.

(b) For each storage tank subject to this subpart having a capacity of 18.9 cubic meters (5,000 gallons) or more that is not subject to control based on the criteria specified in Table 2 to this subpart, items 1 through 6, you must comply with the requirements specified in paragraphs (b)(1) through (3) of this section.

(1)(i) You must submit the information in § 63.2386(c)(1), (c)(2), (c)(3), and (c)(10)(i) in either the Notification of Compliance Status, according to the schedule specified in Table 12 to this subpart, or in your first Compliance report, according to the schedule specified in § 63.2386(b), whichever occurs first.

(ii)(A) If you submit your first Compliance report before your NOCS, the NOCS must contain the information specified in § 63.2386(d)(3) and (4) if any of the changes identified in paragraph (d) of this section have occurred since the filing of the first Compliance report. If none of the changes identified in paragraph (d) of this section have occurred since the filing of the first compliance report, you do not need to report the information specified in § 63.2386(c)(10)(i) when you submit your NOCS.

(B) If you submit your NOCS before your first compliance report, your first Compliance report must contain the information specified in § 63.2386(d)(3) and (4) if any of the changes specified in paragraph (d) of this section have occurred since the filing of the NOCS.

(iii) If you are already submitting a NOCS or a first Compliance report under § 63.2386(c), you do not need to submit a separate NOCS or first Compliance report for each storage tank that meets the conditions identified in paragraph (b) of this section (i.e., a single NOCS or first Compliance report should be submitted).

(2)(i) You must submit a subsequent Compliance report according to the schedule in § 63.2386(b) whenever any of the events in paragraph (d) of this section occur, as applicable.

(ii) Your subsequent Compliance reports must contain the information in § 63.2386(c)(1), (2), (3) and, as applicable, in § 63.2386(d)(3) and (4). If you are already submitting a subsequent Compliance report under § 63.2386(d), you do not need to submit a separate subsequent Compliance report for each storage tank that meets the conditions identified in paragraph (b) of this section (i.e., a single subsequent Compliance report should be submitted).

(3) For each storage tank that meets the conditions identified in paragraph (b) of this section, you must keep documentation, including a record of the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid, that verifies the storage tank is not required to be controlled under this subpart. The documentation must be kept up-to-date and must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form in a separate location.

(c) For each transfer rack subject to this subpart that loads organic liquids but is not subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must comply with the requirements specified in paragraphs (c)(1) through (3) of this section.

(1)(i) You must submit the information in § 63.2386(c)(1), (c)(2), (c)(3), and (c)(10)(i) in either the Notification of Compliance Status, according to the schedule specified in Table 12 to this subpart, or a first Compliance report, according to the schedule specified in § 63.2386(b), whichever occurs first.

(ii)(A) If you submit your first Compliance report before your NOCS, the NOCS must contain the information specified in § 63.2386(d)(3) and (4) if any of the changes identified in paragraph (d) of this section have occurred since the filing of the first Compliance report. If none of the changes identified in paragraph (d) of this section have occurred since the filing of the first compliance report, you do not need to report the information specified in § 63.2386(c)(10)(i) when you submit your NOCS.

(B) If you submit your NOCS before your first compliance report, your first Compliance report must contain the information specified in § 63.2386(d)(3) and (4) if any of the changes specified in paragraph (d) of this section have occurred since the filing of the NOCS.

(iii) If you are already submitting a NOCS or a first Compliance report under § 63.2386(c), you do not need to submit a separate NOCS or first Compliance report for each transfer rack that meets the conditions identified in

paragraph (b) of this section (i.e., a single NOCS or first Compliance report should be submitted).

(2)(i) You must submit a subsequent Compliance report according to the schedule in § 63.2386(b) whenever any of the events in paragraph (d) of this section occur, as applicable.

(ii) Your subsequent Compliance reports must contain the information in § 63.2386(c)(1), (2), (3) and, as applicable, in § 63.2386(d)(3) and (4). If you are already submitting a subsequent Compliance report under § 63.2386(d), you do not need to submit a separate subsequent Compliance report for each transfer rack that meets the conditions identified in paragraph (c) of this section (i.e., a single subsequent Compliance report should be submitted).

(3) For each transfer rack that meets the conditions identified in paragraph (c) of this section, you must keep documentation, including the records specified in § 63.2390(d), that verifies the transfer rack is not required to be controlled under this subpart. The documentation must be kept up-to-date and must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form in a separate location.

(d) If one or more of the events identified in paragraphs (d)(1) through (4) of this section occur since the filing of the NOCS or the last Compliance report, you must submit a subsequent Compliance report as specified in paragraphs (b)(3) and (c)(3) of this section.

(1) Any storage tank or transfer rack became subject to control under this subpart EEE; or

(2) Any storage tank equal to or greater than 18.9 cubic meters (5,000 gallons) became part of the affected source but is not subject to any of the emission limitations, operating limits, or work practice standards of this subpart; or

(3) Any transfer rack (except those racks at which only unloading of organic liquids occurs) became part of the affected source; or

(4) Any of the information required in § 63.2386(c)(1), (2), or (3) has changed.

6. Section 63.2346 is amended by:

a. Revising paragraph (a)(2);

b. Revising paragraph (b) introductory text;

c. Revising paragraph (b)(2);

d. Revising paragraph (b)(3);

e. Revising paragraph (d) introductory text;

f. Revising paragraph (e); and

g. Removing and reserving paragraph (h) to read as follows:

§ 63.2346 What emission limitations, operating limits, and work practice standards must I meet?

(a) * * *

(2) Route emissions to fuel gas systems or back into a process as specified in 40 CFR part 63, subpart SS.

* * * * *

(b) *Transfer racks.* For each transfer rack that is part of the collection of transfer racks that meets the total actual annual facility-level organic liquid loading volume criterion for control in Table 2 to this subpart, items 7 through 10, you must comply with paragraph (b)(1), (2), or (3) of this section for each arm in the transfer rack loading an organic liquid whose organic HAP content meets the organic HAP criterion for control in Table 2 to this subpart, items 7 through 10. For existing affected sources, you must comply with paragraph (b)(1), (b)(2), or (b)(3)(i) of this section during the loading of organic liquids into transport vehicles. For new affected sources, you must comply with paragraph (b)(1), (b)(2), or (b)(3)(i) and (ii) of this section during the loading of organic liquids into transport vehicles and containers. If the total actual annual facility-level organic liquid loading volume at any affected source is equal to or greater than the loading volume criteria for control in Table 2 to this subpart, but at a later date is less than the loading volume criteria for control, compliance with paragraph (b)(1), (2), or (3) of this section is no longer required. For new sources and reconstructed sources, as defined in § 63.2338(d) and (e), if at a later date, the total actual annual facility-level organic liquid loading volume again becomes equal to or greater than the loading volume criteria for control in Table 2 to this subpart, the owner or operator must comply with paragraph (b)(1), (b)(2), or (b)(3)(i) and (ii) of this section immediately, as specified in § 63.2342(a)(3). For existing sources, as defined in § 63.2338(f), if at a later date, the total actual annual facility-level organic liquid loading volume again becomes equal to or greater than the loading volume criteria for control in Table 2 to this subpart, the owner or operator must comply with paragraph (b)(1), (b)(2), or (b)(3)(i) of this section immediately, as specified in § 63.2342(b)(3)(i), unless an alternative compliance schedule has been approved under § 63.2342(b)(3)(ii) and subject to the use limitation specified in § 63.2342(b)(3)(ii)(I).

* * * * *

(2) Route emissions to fuel gas systems or back into a process as specified in 40 CFR part 63, subpart SS.

(3)(i) Use a vapor balancing system that routes organic HAP vapors displaced from the loading of organic liquids into transport vehicles to the storage tank from which the liquid being loaded originated or to a process unit.

(ii) Use a vapor balancing system that routes the organic HAP vapors displaced from the loading of organic liquids into containers directly (e.g., no intervening tank or containment area such as a room) to the storage tank from which the liquid being loaded originated or to a process unit.

* * * * *

(d) *Transport vehicles.* For each transport vehicle equipped with vapor collection equipment that is loaded at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must comply with paragraph (d)(1) of this section. For each transport vehicle without vapor collection equipment that is loaded at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must comply with paragraph (d)(2) of this section.

* * * * *

(e) *Operating limits.* For each high throughput transfer rack, you must meet each operating limit in Table 3 to this subpart for each control device used to comply with the provisions of this subpart whenever emissions from the loading of organic liquids are routed to the control device. For each storage tank and low throughput transfer rack, you must comply with the requirements for monitored parameters as specified in subpart SS of this part for storage vessels and, during the loading of organic liquids, for low throughput transfer racks, respectively. Alternatively, you may comply with the operating limits in Table 3 to this subpart.

* * * * *

(h) [Reserved]

* * * * *

7. Section 63.2350 is amended by revising paragraph (c) to read as follows:

§ 63.2350 What are my general requirements for complying with this subpart?

* * * * *

(c) Except for emission sources not required to be controlled as specified in § 63.2343, you must develop and implement a written startup, shutdown, and malfunction (SSM) plan according to the provisions in § 63.6(e)(3).

8. Section 63.2354 is amended by revising paragraph (b)(3) to read as follows:

§ 63.2354 What performance tests, design evaluations, and performance evaluations must I conduct?

* * * * *

(b) * * *

(3) In addition to EPA Method 25 or 25A of 40 CFR part 60, appendix A, to determine compliance with the organic HAP or TOC emission limit, you may use EPA Method 18 of 40 CFR part 60, appendix A, as specified in paragraph (b)(3)(i) of this section. As an alternative to EPA Method 18, you may use ASTM D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS) (incorporated by reference, see § 63.14), under the conditions specified in paragraph (b)(3)(ii) of this section.

(i)(A) If you use EPA Method 18 to measure compliance with the percentage efficiency limit, you must first determine which organic HAP are present in the inlet gas stream (*i.e.*, uncontrolled emissions) using knowledge of the organic liquids or the screening procedure described in EPA Method 18. In conducting the performance test, you must analyze samples collected as specified in EPA Method 18, simultaneously at the inlet and outlet of the control device. Quantify the emissions for the same organic HAP identified as present in the inlet gas stream for both the inlet and outlet gas streams of the control device.

(B) If you use EPA Method 18 of 40 CFR part 60, appendix A, to measure compliance with the emission concentration limit, you must first determine which organic HAP are present in the inlet gas stream using knowledge of the organic liquids or the screening procedure described in EPA Method 18. In conducting the performance test, analyze samples collected as specified in EPA Method 18 at the outlet of the control device. Quantify the control device outlet emission concentration for the same organic HAP identified as present in the inlet or uncontrolled gas stream.

(ii) You may use ASTM D6420–99 as an alternative to EPA Method 18 if the target concentration is between 150 ppbv and 100 ppmv and either of the conditions specified in paragraph (b)(2)(ii)(A) or (B) of this section exists. For target compounds not listed in Section 1.1 of ASTM D6420–99 and not amenable to detection by mass spectrometry, you may not use ASTM D6420–99.

(A) The target compounds are those listed in Section 1.1 of ASTM D6420–99; or

(B) For target compounds not listed in Section 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, the additional system continuing calibration check after each run, as detailed in ASTM D6420–99, Section 10.5.3, must be followed, met, documented, and submitted with the data report, even if there is no moisture condenser used or the compound is not considered water-soluble.

* * * * *

9. Section 63.2362 is amended by revising paragraph (b)(1) to read as follows:

§ 63.2362 When must I conduct subsequent performance tests?

* * * * *

(b)(1) For each transport vehicle that you own that is equipped with vapor collection equipment and that is loaded with organic liquids at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must perform the vapor tightness testing required in Table 5 to this subpart, item 2, on that transport vehicle at least once per year.

* * * * *

10. Section 63.2382 is amended by revising paragraphs (d)(2)(iv), (v), (vi), (vii), and (viii) to read as follows:

§ 63.2382 What notifications must I submit and when and what information should be submitted?

* * * * *

(d) * * *

(2) * * *

(iv) Descriptions of worst-case operating and/or testing conditions for the control device(s).

(v) Identification of emission sources subject to overlapping requirements described in § 63.2396 and the authority under which you will comply.

(vi) The applicable information specified in § 63.1039(a)(1) through (3) for all pumps and valves subject to the work practice standards for equipment leak components in Table 4 to this subpart, item 4.

(vii) If you are complying with the vapor balancing work practice standard for transfer racks according to Table 4 to this subpart, item 3.a, include a statement to that effect and a statement that the pressure vent settings on the affected storage tanks are greater than or equal to 2.5 pounds per square inch gauge (psig).

(viii) The information specified in § 63.2386(c)(10)(i), unless the information has already been submitted with the first Compliance report. If the information specified in § 63.2386(c)(10)(i) has already been submitted with the first Compliance report, the information specified in § 63.2386(d)(3) and (4), as applicable, shall be submitted instead.

11. Section 63.2386 is amended by:

a. Revising paragraph (b)(3);

b. Revising paragraph (c)(4);

c. Redesignating paragraph (c)(10) as (c)(9) and paragraph (c)(9) as (c)(10);

e. Revising newly designated paragraphs (c)(9) and (c)(10);

f. Revising paragraph (d) introductory text;

g. Removing paragraph (d)(3); and

h. Adding new paragraphs (d)(3) and (d)(4) to read as follows:

§ 63.2386 What reports must I submit and when and what information is to be submitted in each?

* * * * *

(b) * * *

(3) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent Compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) and (2) of this section.

(c) * * *

(4) Any changes to the information listed in § 63.2382(d)(2) that have occurred since the submittal of the Notification of Compliance Status.

* * * * *

(9) A listing of all transport vehicles into which organic liquids were loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, during the previous 6 months for which vapor tightness documentation as required in § 63.2390(c) was not on file at the facility.

(10)(i) A listing of all transfer racks (except those racks at which only unloading of organic liquids occurs) and of tanks greater than or equal to 18.9 cubic meters (5,000 gallons) that are part of the affected source but are not subject to any of the emission limitations, operating limits, or work practice standards of this subpart.

(ii) If the information specified in paragraph (c)(10)(i) of this section has already been submitted with the NOCS, the information specified in paragraphs (d)(3) and (4) of this section, as applicable, shall be submitted instead.

(d) *Subsequent Compliance reports.* Subsequent Compliance reports must contain the information in paragraphs (c)(1) through (9) of this section and, where applicable, the information in

paragraphs (d)(1) through (4) of this section.

* * * * *

(3)(i) A listing of any storage tank that became subject to controls based on the criteria for control specified in Table 2 to this subpart, items 1 through 6, since the filing of the last Compliance report.

(ii) A listing of any transfer rack that became subject to controls based on the criteria for control specified in Table 2 to this subpart, items 7 through 10, since the filing of the last Compliance report.

(4)(i) A listing of tanks greater than or equal to 18.9 cubic meters (5,000 gallons) that became part of the affected source but are not subject to any of the emission limitations, operating limits, or work practice standards of this subpart, since the last Compliance report.

(ii) A listing of all transfer racks (except those racks at which only the unloading of organic liquids occurs) that became part of the affected source but are not subject to any of the emission limitations, operating limits, or work practice standards of this subpart, since the last Compliance report.

* * * * *

12. Section 63.2390 is amended by:

a. Revising paragraphs (a) and (b);

b. Revising paragraph (c) introductory text;

c. Redesignating paragraph (c)(3) as (d);

d. Adding a new paragraph (c)(3); and

e. Revising newly designated paragraph (d) to read as follows:

§ 63.2390 What records must I keep?

(a) For each emission source identified in § 63.2338 that does not require control under this subpart, you must keep all records identified in § 63.2343.

(b) For each emission source identified in § 63.2338 that does require control under this subpart:

(1) You must keep all records identified in subpart SS of this part and in Table 12 to this subpart that are applicable, including records related to notifications and reports, SSM, performance tests, CMS, and performance evaluation plans; and

(2) You must keep the records required to show continuous compliance, as required in subpart SS of this part and in Tables 8 through 10 to this subpart, with each emission limitation, operating limit, and work practice standard that applies to you.

(c) For each transport vehicle into which organic liquids are loaded at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must keep the applicable records in paragraphs (c)(1) and (2) of this section or alternatively the verification records in paragraph (c)(3) of this section.

* * * * *

(3) In lieu of keeping the records specified in paragraph (c)(1) or (2) of this section, as applicable, the owner or operator shall record that the verification of DOT tank certification or Method 27 of appendix A to 40 CFR part 60 testing, required in Table 5 to this subpart, item 2, has been performed. Various methods for the record of verification can be used, such as: a check-off on a log sheet, a list of DOT serial numbers or Method 27 data, or a position description for gate security showing that the security guard will not allow any trucks on site that do not have the appropriate documentation.

(d) You must keep records of the total actual annual facility-level organic liquid loading volume as defined in § 63.2406 through transfer racks to document the applicability, or lack thereof, of the emission limitations in Table 2 to this subpart, items 7 through 10.

13. Section 63.2394 is amended by revising paragraph (a) to read as follows:

§ 63.2394 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form at a separate location.

* * * * *

14. Section 63.2396 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.2396 What compliance options do I have if part of my plant is subject to both this subpart and another subpart?

(a) *Compliance with other regulations for storage tanks.*—(1) After the compliance dates specified in § 63.2342, you are in compliance with the provisions of this subpart for any storage tank that is assigned to the OLD affected source and that is both controlled with a floating roof and is in compliance with the provisions of either 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, except that records shall be kept for 5 years rather than 2 years for storage tanks that are assigned to the OLD affected source.

(2) After the compliance dates specified in § 63.2342, you are in compliance with the provisions of this subpart for any storage tank with a fixed roof that is assigned to the OLD affected source and that is both controlled with a closed vent system and control device and is in compliance with either 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, except that you must comply with the monitoring, recordkeeping, and reporting requirements in this subpart.

(3) As an alternative to paragraphs (a)(1) and (2) of this section, if a storage tank assigned to the OLD affected source is subject to control under 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, you may elect to comply only with the requirements of this subpart for storage tanks meeting the applicability criteria for control in Table 2 to this subpart.

(b) *Compliance with other regulations for transfer racks.* After the compliance dates specified in § 63.2342, if you have a transfer rack that is subject to 40 CFR part 61, subpart BB, and that transfer rack is in OLD operation, you must meet all of the requirements of this subpart for that transfer rack when the transfer rack is in OLD operation during the loading of organic liquids.

* * * * *

15. Section 63.2402 is amended by revising paragraphs (b)(2), (b)(3), and (b)(4) to read as follows:

§ 63.2402 Who implements and enforces this subpart?

* * * * *

(b) * * *

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

16. Section 63.2406 is amended by:

a. Revising the introductory text;

b. Revising the definitions of ''Shutdown,'' ''Startup,'' ''Transfer rack,'' ''Vapor balancing system,'' and ''Vapor collection system,'' and paragraph (3) of the definition for ''Storage tank;'' and

c. Adding in alphabetical order definitions for ''Bottoms receivers,'' ''High throughput transfer rack,'' ''Low throughput transfer rack,'' ''Surge control vessel,'' and ''Total actual annual facility-level organic liquid loading volume'' to read as follows:

§ 63.2406 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in § 63.2, 40 CFR part 63, subparts H, PP, SS, TT, UU, and WW, and in this section. If the same term is defined in another subpart and in this section, it will have the meaning given in this section for purposes of this

subpart. Notwithstanding the introductory language in § 63.921, the terms ''container'' and ''safety device'' shall have the meaning found in this subpart and not in § 63.921.

* * * * *

Bottoms receiver means a tank that collects distillation bottoms before the stream is sent for storage or for further processing downstream.

* * * * *

High throughput transfer rack means those transfer racks that transfer into transport vehicles (for existing affected sources) or into transport vehicles and containers (for new affected sources) a total of 11.8 million liters per year or greater of organic liquids.

* * * * *

Low throughput transfer rack means those transfer racks that transfer into transport vehicles (for existing affected sources) or into transport vehicles and containers (for new affected sources) less than 11.8 million liters per year of organic liquids.

* * * * *

Shutdown means the cessation of operation of an OLD affected source, or portion thereof (other than as part of normal operation of a batch-type operation), including equipment required or used to comply with this subpart, or the emptying and degassing of a storage tank. Shutdown as defined here includes, but is not limited to, events that result from periodic maintenance, replacement of equipment, or repair.

Startup means the setting in operation of an OLD affected source, or portion thereof (other than as part of normal operation of a batch-type operation), for any purpose. Startup also includes the placing in operation of any individual piece of equipment required or used to comply with this subpart including, but not limited to, control devices and monitors.

Storage tank * * *

(3) Bottoms receivers;

* * * * *

Surge control vessel means feed drums, recycle drums, and intermediate vessels. Surge control vessels are used within chemical manufacturing processes when in-process storage, mixing, or management of flow rates or volumes is needed to assist in production of a product.

* * * * *

Total actual annual facility-level organic liquid loading volume means the total facility-level actual volume of organic liquid loaded for transport within or out of the facility through transfer racks that are part of the affected source into transport vehicles (for existing affected sources) or into transport vehicles and containers (for new affected sources) based on a 3-year rolling average, calculated annually.

(1) For existing affected sources, each 3-year rolling average is based on actual facility-level loading volume during each calendar year (January 1 through December 31) in the 3-year period. For calendar year 2004 only (the first year of the initial 3-year rolling average), if an owner or operator of an affected source does not have actual loading volume data for the time period from January 1, 2004, through February 2, 2004 (the time period prior to the effective date of the OLD NESHAP), the owner or operator shall compute a facility-level loading volume for this time period as follows: At the end of the 2004 calendar year, the owner or operator shall calculate a daily average facility-level loading volume (based on the actual loading volume for February 3, 2004, through December 31, 2004) and use that daily average to estimate the facility-level loading volume for the period of time from January 1, 2004, through February 2, 2004. The owner or operator shall then sum the estimated facility-level loading volume from January 1, 2004, through February 2, 2004, and the actual facility-level loading volume from February 3, 2004, through December 31, 2004, to calculate the annual facility-level loading volume for calendar year 2004.

(2)(i) For new affected sources, the 3-year rolling average is calculated as an average of three 12-month periods. An owner or operator must select as the beginning calculation date with which to start the calculations as either the initial startup date of the new affected source or the first day of the calendar month following the month in which startup occurs. Once selected, the date with which the calculations begin cannot be changed.

(ii) The initial 3-year rolling average is based on the projected maximum facility-level annual loading volume for each of the 3 years following the selected beginning calculation date. The second 3-year rolling average is based on actual facility-level loading volume for the first year of operation plus a new projected maximum facility-level annual loading volume for second and third years following the selected beginning calculation date. The third 3-year rolling average is based on actual facility-level loading volume for the first 2 years of operation plus a new projected maximum annual facility-level loading volume for the third year following the beginning calculation date. Subsequent 3-year rolling averages are based on actual facility-level loading volume for each year in the 3-year rolling average.

Transfer rack means a single system used to load organic liquids into, or unload organic liquids out of, transport vehicles or containers. It includes all loading and unloading arms, pumps, meters, shutoff valves, relief valves, and other piping and equipment necessary for the transfer operation. Transfer equipment and operations that are physically separate (*i.e.*, do not share common piping, valves, and other equipment) are considered to be separate transfer racks.

* * * * *

Vapor balancing system means a piping system that collects organic HAP vapors displaced from transport vehicles or containers during loading and routes the collected vapors to the storage tank from which the liquid being loaded originated or compresses the vapors for direct conveyance to a chemical manufacturing process unit. For containers, the piping system must route the displaced vapors directly to the appropriate storage tank or process unit in order to qualify as a vapor balancing system.

Vapor collection system means any equipment located at the source (*i.e.*, at the OLD operation) that is not open to the atmosphere; that is composed of piping, connections, and, if necessary, flow-inducing devices; and that is used for:

(1) Containing and conveying vapors displaced during the loading of transport vehicles to a control device;

(2) Containing and directly conveying vapors displaced during the loading of containers; or

(3) Vapor balancing. This does not include any of the vapor collection equipment that is installed on the transport vehicle.

* * * * *

17. Table 2 to Subpart EEEE of Part 63 is amended by revising entries 1, 6, 7, 8, 9, and 10 to read as follows:

TABLE 2 TO SUBPART EEEE OF PART 63.—EMISSION LIMITS

* * * * * * *

If you own or operate . . .	And if . . .	Then you must . . .
1. A storage tank at an existing affected source with a capacity ≥18.9 cubic meters (5,000 gallons) and <189.3 cubic meters (50,000 gallons).	a. The stored organic liquid is not crude oil and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥27.6 kilopascals (4.0 psia) and <76.6 kilopascals (11.1 psia).	i. Reduce emissions of total organic HAP (or, upon approval, TOC) by at least 95 weight-percent or, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3% oxygen for combustion devices using supplemental combustion air, by venting emissions through a closed vent system to any combination of control devices meeting the applicable requirements of 40 CFR part 63, subpart SS; OR ii. Comply with the work practice standards specified in Table 4 to this subpart, items 1.a or 1.b for tanks storing liquids described in that table.
.....	b. The stored organic liquid is crude oil	i. See the requirement in item 1.a.i or 1.a.ii of this table.
* *	* * *	* *
6. A storage tank at an existing, reconstructed, or new affected source meeting the capacity criteria specified in Table 2 of this subpart, items 1 through 5.	a. The stored organic liquid is not crude oil and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥76.6 kilopascals (11.1 psia).	i. Reduce emissions of total organic HAP (or, upon approval, TOC) by at least 95 weight-percent or, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3% oxygen for combustion devices using supplemental combustion air, by venting emissions through a closed vent system to any combination of control devices meeting the applicable requirements of 40 CFR part 63, subpart SS; OR ii. Comply with the work practice standards specified in Table 4 to this subpart, item 2.a, for tanks storing the liquids described in that table.
7. A transfer rack at an existing facility where the total actual annual facility-level organic liquid loading volume through transfer racks is equal to or greater than 800,000 gallons and less than 10 million gallons.	a. The total Table 1 organic HAP content of the organic liquid being loaded through one or more of the transfer rack's arms is at least 98% by weight and is being loaded into a transport vehicle.	i. For all such loading arms at the rack, reduce emissions of total organic HAP (or, upon approval, TOC) from the loading of organic liquids either by venting the emissions that occur during loading through a closed vent system to any combination of control devices meeting the applicable requirements of 40 CFR part 63, subpart SS, achieving at least 98 weight-percent HAP reduction, OR, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3% oxygen for combustion devices using supplemental combustion air; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3 of Table 4 to this subpart.
8. A transfer rack at an existing facility where the total actual annual facility-level organic liquid loading volume through transfer racks is ≥10 million gallons.	a. One or more of the transfer rack's arms is loading an organic liquid into a transport vehicle.	i. See the requirements in items 7.a.i and 7.a.ii of this table.
9. A transfer rack at a new facility where the total actual annual facility-level organic liquid loading volume through transfer racks is less than 800,000 gallons.	a. The total Table 1 organic HAP content of the organic liquid being loaded through one or more of the transfer rack's arms is at least 25% by weight and is being loaded into a transport vehicle.	i. See the requirements in items 7.a.i and 7.a.ii of this table.
	b. One or more of the transfer rack's arms is filling a container with a capacity equal to or greater than 55 gallons.	i. For all such loading arms at the rack during the loading of organic liquids, comply with the provisions of §§ 63.924 through 63.927 of 40 CFR part 63, Subpart PP—National Emission Standards for Containers, Container Level 3 controls; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3.a of Table 4 to this subpart.

TABLE 2 TO SUBPART EEEE OF PART 63.—EMISSION LIMITS—Continued

If you own or operate . . .	And if . . .	Then you must . . .
10. A transfer rack at a new facility where the total actual annual facility-level organic liquid loading volume through transfer racks is equal to or greater than 800,000 gallons.	a. One or more of the transfer rack's arms is loading an organic liquid into a transport vehicle. b. One or more of the transfer rack's arms is filling a container with a capacity equal to or greater than 55 gallons.	i. See the requirements in items 7.a.i and 7.a.ii of this table. i. For all such loading arms at the rack during the loading of organic liquids, comply with the provisions of §§ 63.924 through 63.927 of 40 CFR part 63, Subpart PP—National Emission Standards for Containers, Container Level 3 controls; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3.a of Table 4 to this subpart.

18. Table 3 to Subpart EEEE of Part 63 is amended by revising entries 3, 5, and 6 to read as follows:

TABLE 3 TO SUBPART EEEE OF PART 63.—OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS

For each existing, each reconstructed, and each new affected source using . . .	You must . . .
3. An absorber to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the absorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Maintain the daily average scrubbing liquid temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the difference between the specific gravities of the saturated and fresh scrubbing fluids greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.
5. An adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Maintain the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Before the adsorption cycle commences, achieve and maintain the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Achieve a pressure reduction during each adsorption bed regeneration cycle greater than or equal to the pressure reduction established during the design evaluation or performance test that demonstrated compliance with the emission limit.
6. An adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.

19. Table 4 to Subpart EEEE to Part 63 is revised to read as follows:

TABLE 4 TO SUBPART EEEE OF PART 63.—WORK PRACTICE STANDARDS

[As stated in § 63.2346, you may elect to comply with one of the work practice standards for existing, reconstructed, or new affected sources in the following table. If you elect to do so, . . .]

For each . . .	You must . . .
1. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5.	a. Comply with the requirements of 40 CFR part 63, subpart WW (control level 2), if you elect to meet 40 CFR part 63, subpart WW (control level 2), requirements as an alternative to the emission limit in Table 2 to this subpart, items 1 through 5; or b. Comply with the requirements of § 63.984 for routing emissions to a fuel gas system or back to a process.
2. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and organic HAP vapor pressure criteria specified in Table 2 to this subpart, item 6.	a. Comply with the requirements of § 63.984 for routing emissions to a fuel gas system or back to a process.
3. Transfer rack subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. If the option of a vapor balancing system is selected, install and, during the loading of organic liquids, operate a system that meets the requirements in Table 7 to this subpart, item 3.b.i. and item 3.b.ii, as applicable; or b. Comply with the requirements of § 63.984 during the loading of organic liquids, for routing emissions to a fuel gas system or back to a process.
4. Pump, valve, and sampling connection that operates in organic liquids service at least 300 hours per year at an existing, reconstructed, or new affected source.	Comply with the requirements for pumps, valves, and sampling connections in 40 CFR part 63, subpart TT (control level 1), subpart UU (control level 2), or subpart H.
5. Transport vehicles equipped with vapor collection equipment that are loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10.	Follow the steps in 40 CFR 60.502(e) to ensure that organic liquids are loaded only into vapor-tight transport vehicles, and comply with the provisions in 40 CFR 60.502(f), (g), (h), and (i), except substitute the term transport vehicle at each occurrence of tank truck or gasoline tank truck in those paragraphs.
6. Transport vehicles equipped without vapor collection equipment that are loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10.	Ensure that organic liquids are loaded only into transport vehicles that have a current certification in accordance with the U.S. DOT pressure test requirements in 49 CFR 180 (cargo tanks) or 49 CFR 173.31 (tank cars).

20. Table 5 to Subpart EEEE of Part 63 is revised to read as follows:

TABLE 5 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS AND DESIGN EVALUATIONS

[As stated in §§ 63.2354(a) and 63.2362, you must comply with the requirements for performance tests and design evaluations for existing, reconstructed, or new affected sources as follows]

For . . .	You must conduct . . .	According to . . .	Using . . .	To determine . . .	According to the following requirements . . .
1. Each existing, each reconstructed, and each new affected source using a nonflare control device to comply with an emission limit in Table 2 to this subpart, items 1 through 10.	a. A performance test to determine the organic HAP (or, upon approval, TOC) control efficiency of each nonflare control device, OR the exhaust concentration of each combustion device; OR	i. § 63.985(b)(1)(ii), § 63.988(b), § 63.990(b), or § 63.995(b).	(1) EPA Method 1 or 1A in appendix A of 40 CFR part 60, as appropriate.	(A) Sampling port locations and the required number of traverse points.	(i) Sampling sites must be located at the inlet and outlet of each control device if complying with the control efficiency requirement or at the outlet of the control device if complying with the exhaust concentration requirement; AND (ii) the outlet sampling site must be located at each control device prior to any releases to the atmosphere.
			(2) EPA Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A of 40 CFR part 60, as appropriate.	(A) Stack gas velocity and volumetric flow rate.	See the requirements in items 1.a.i.(1)(A) (i) and (ii) of this table.

TABLE 5 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS AND DESIGN EVALUATIONS—Continued

[As stated in §§ 63.2354(a) and 63.2362, you must comply with the requirements for performance tests and design evaluations for existing, reconstructed, or new affected sources as follows]

For . . .	You must conduct . . .	According to . . .	Using . . .	To determine . . .	According to the following requirements . . .
			(3) EPA Method 3 or 3B in appendix A of 40 CFR part 60, as appropriate.	(A) Concentration of CO_2 and O_2 and dry molecular weight of the stack gas.	See the requirements in items 1.a.i.(1)(A) (i) and (ii) of this table.
			(4) EPA Method 4 in appendix A of 40 CFR part 60.	(A) Moisture content of the stack gas.	See the requirements in items 1.a.i.(1)(A) (i) and (ii) of this table.
			(5) EPA Method 18, 25, or 25A in appendix A of 40 CFR part 60, as appropriate, or EPA Method 316 in appendix A of 40 CFR part 63 for measuring formaldehyde.	(A) Total organic HAP (or, upon approval, TOC), or formaldehyde emissions.	(i) The organic HAP used for the calibration gas for EPA Method 25A must be the single organic HAP representing the largest percent by volume of emissions; AND (ii) During the performance test, you must establish the operating parameter limits within which total organic HAP (or, upon approval, TOC) emissions are reduced by the required weight-percent or, as an option for nonflare combustion devices, to 20 ppmv exhaust concentration.
	b. A design evaluation (for nonflare control devices) to determine the organic HAP (or, upon approval, TOC) control efficiency of each nonflare control device, or the exhaust concentration of each combustion control device.	§ 63.985(b)(1)(i)	.....	.....	During a design evaluation, you must establish the operating parameter limits within which total organic HAP, (or, upon approval, TOC) emissions are reduced by at least 95 weight-percent or as an option to 20 ppmv exhaust concentration.
2. Each transport vehicle that you own that is equipped with vapor collection equipment and is loaded with organic liquids at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	A performance test to determine the vapor tightness of the tank and then repair as needed until it passes the test.	.....	EPA Method 27 in appendix A of 40 CFR part 60.	Vapor tightness	The pressure change in the tank must be no more than 250 pascals (1 inch of water) in 5 minutes after it is pressurized to 4,500 pascals (18 inches of water).

21. Table 6 to Subpart EEEE of Part 63 is amended by revising entry 2 to read as follows:

TABLE 6 TO SUBPART EEEE OF PART 63.—INITIAL COMPLIANCE WITH EMISSION LIMITS

For each . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
* * * * * * *		
2. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	Reduce total organic HAP (or, upon approval, TOC) emissions from the loading of organic liquids by at least 98 weight-percent, or as an option for combustion devices to an exhaust concentration of ≤ 20 ppmv.	Total organic HAP (or, upon approval, TOC) emissions from the loading of organic liquids, based on the results of the performance testing or design evaluation specified in Table 5 to this subpart, item 1.a or 1.b, respectively, are reduced by at least 98 weight-percent or as an option for combustion devices to an exhaust concentration of ≤ 20 ppmv.

22. Table 7 to Subpart EEEE of Part 63 is revised to read as follows:

TABLE 7 TO SUBPART EEEE OF PART 63.—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS

For each . . .	If you . . .	You have demonstrated initial compliance if . . .
1. Storage tank at an existing affected source meeting either set of tank capacity and liquid organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 or 2.	a. Install a floating roof or equivalent control that meets the requirements in Table 4 to this subpart, item 1.a.	i. After emptying and degassing, you visually inspect each internal floating roof before the refilling of the storage tank and perform seal gap inspections of the primary and secondary rim seals of each external floating roof within 90 days after the refilling of the storage tank.
	b. Route emissions to a fuel gas system or back to a process.	i. You meet the requirements in § 63.984(b) and submit the statement of connection required by § 63.984(c).
2. Storage tank at a reconstructed or new affected source meeting any set of tank capacity and liquid organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 3 through 5.	a. Install a floating roof or equivalent control that meets the requirements in Table 4 to this subpart, item 1.a.	i. You visually inspect each internal floating roof or before the initial filling of the storage tank, and perform seal gap inspections of the primary and secondary rim seals of each external floating roof within 90 days after the initial filling of the storage tank.
	b. Route emissions to a fuel gas system or back to a process.	i. See item 1.b.i of this table.
3. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. Load organic liquids only into transport vehicles having current vapor tightness certification as described in Table 4 to this subpart, item 5 and item 6.	i. You comply with the provisions specified in Table 4 to this subpart, item 5 or item 6, as applicable.
	b. Install and, during the loading of organic liquids, operate a vapor balancing system.	i. You design and operate the vapor balancing system to route organic HAP vapors displaced from loading of organic liquids into transport vehicles to the storage tank from which the liquid being loaded originated or to a process unit. ii. You design and operate the vapor balancing system to route organic HAP vaports displaced from loading of organic liquids into containers directly (e.g., no intervening tank or containment area such as a room) to the storage tank from which the liquid being loaded originated or to a process unit.
	c. Route emissions to a fuel gas system or bank to a process.	i. See item 1.b.i of this table.
4. Equipment leak component, as defined in § 63.2406, that operates in organic liquids service ≥300 hours per year at an existing, reconstructed, or new affected source.	a. Carry out a leak detection and repair program or equivalent control according to one of the subparts listed in Table 4 to this subpart, item 4.a.	i. You specify which one of the control programs listed in Table 4 to this subpart you have selected, OR ii. Provide written specifications for your equivalent control approach.

23. Table 8 to Subpart EEEE of Part 63 is revised to read as follows:

TABLE 8 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS

[As stated in §§ 63.2378(a) and (b) and 63.2390(b), you must show continuous compliance with the emission limits for existing, reconstructed, or new affected sources according to the following table]

For each . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
1. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and liquid organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 through 6.	a. Reduce total organic HAP (or, upon approval, TOC) emissions from the closed vent system and control devices by 95 weight-percent or greater, or as an option to 20 ppmv or less of total organic HAP (or, upon approval, TOC) in the exhaust of combustion devices.	i. Performing CMS monitoring and collecting data according to §§ 63.2366, 63.2374, and 63.2378; AND ii. Maintaining the operating limits established during the design evaluation or performance test that demonstrated compliance with the emission limit.
2. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. Reduce total organic HAP (or, upon approval, TOC) emissions during the loading of organic liquids from the closed vent system and control device by 98 weight-percent or greater, or as an option to 20 ppmv or less of total organic HAP (or, upon approval, TOC) in the exhaust of combustion devices.	i. Performing CMS monitoring and collecting data according to §§ 63.2366, 63.2374, and 63.2378 during loading of organic AND ii. Maintaining the operating limits established during the design evaluation or performance test that demonstrated compliance with the emission limit during the loading of organic liquids.

24. Table 9 to Subpart EEEE of Part 63 is amended by revising entries 2, 3, 4, 5, 6, and 7 to read as follows:

TABLE 9 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS

* * * * * * *

For each existing, reconstructed and each new affected source using . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
* *	* * *	* *
2. A catalytic oxidizer to comply with an emission limit in Table 2 to this subpart.	a. Replace the existing catalyst bed before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND	i. Replacing the existing catalyst bed before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.
	b. Maintain the daily average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND	i. Continuously monitoring and recording the temperature at the inlet of the catalyst bed at least every 15 minutes and maintaining the daily average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.
	c. Maintain the daily average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Continuously monitoring and recording the temperature at the outlet of the catalyst bed every 15 minutes and maintaining the daily average temperature difference across the catalyst bed greater than or equal to the minumum temperature difference established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required § 63.998.

TABLE 9 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS—Continued

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For each existing, reconstructed and each new affected source using . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
3. An absorber to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the absorber exhaust less than or equal to the reference concentration established during the design evaluation test that demonstrated compliance with the emission limit; OR	i. Continuously monitoring the organic concentration in the absorber exhaust and maintaining the daily average concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.
	b. Maintain the daily average scrubbing liquid temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND. Maintain the difference between the specific gravities of the saturated and fresh scrubbing fluids greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Continuously monitoring the scrubbing liquid temperature and maintaining the daily average temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Maintaining the difference between the specific gravities greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iii. Keeping the applicable records required in § 63.998.
4. A condenser to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds at the exit of the condenser less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR	i. Continuously monitoring the organic concentration at the condenser exit and maintaining the daily average concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit: AND ii. Keeping the applicable records required in § 63.998.
	b. Maintain the daily average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Continuously monitoring and recording the temperature at the exit of the condenser at least every 15 minutes and maintaining the daily average temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.
5. An adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR	i. Continuously monitoring the daily average organic concentration in the adsorber exhaust and maintaining the concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.
	b. Maintain the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Before the adsorption cycle commences, achieve and maintain the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test; AND	i. Maintaining the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated with the emission limit; AND ii. Maintaining the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit: AND

TABLE 9 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS—Continued

For each existing, reconstructed and each new affected source using . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
	Achieve greater than or equal to the pressure reduction during the adsorption bed regeneration cycle established during the design evaluation or performance test that demonstrated compliance with the emission limit.	iii. Achieving greater than or equal to the pressure reduction during the regeneration cycle established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iv. Keeping the applicable records required in § 63.998.
6. An adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR	i. Continuously monitoring the organic concentration in the adsorber exhaust and maintaining the concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.
	b. Replace the existing adsorbent in each segment of the bed before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.	i. Replacing the existing adsorbent, in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Maintaining the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iii. Keeping the applicable records required in § 63.998.
7. A flare to comply with an emission limit in Table 2 to this subpart.	a. Maintain a pilot flame in the flare at all times that vapors may be vented to the flare (§ 63.11(b)(5)); AND	i. Continuously operating a device that detects the presence of the pilot flame; ii. Keeping the applicable records required in § 63.998.
	b. Maintain a flare flame at all times that vapors are being vented to the flare § 63.11(b)(5)); AND	i. Maintaining a flare flame at all times that vapors are being vented to the flare; AND ii. Keeping the applicable records required in § 63.998.
	c. Operate the flare with no visible emissions, except for up to 5 minutes in any 2 consecutive hours (§ 63.11(b)(4)); AND EITHER	i. Operating the flare with no visible emissions exceeding the amount allowed; AND ii. Keeping the applicable records required in § 63.998.
	d.1. Operate the flare with an exit velocity that is within the applicable limits in § 63.11(b)(7) and (8) and with a net heating value of the gas being combusted greater than the applicable minimum value in § 63.11(b)(6)(ii); OR	i. Operating the flare within the applicable exit velocity limits; AND ii. Operating the flare with the gas heating value greater than the applicable minimum value; AND iii. Keeping the applicable records required in § 63.998.
	2. Adhere to the requirements in § 63.11(b)(6)(i).	i. Operating the flare within the applicable limits in § 63.11(b)(6)(i); AND ii. Keeping the applicable records required in § 63.998.

25. Table 10 to Subpart EEEE of Part 63 is amended by revising entries 1, 2, 4, and 5 to read as follows:

TABLE 10 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS

* * * * * * *

For each . . .	For the following standard . . .	You must demonstrate continuous compliance by . . .
1. Internal floating roof (IFR) storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity, and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5.	a. Install a floating roof designed and operated according to the applicable specifications in § 63.1063(a) and (b).	i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each IFR once per year (§ 63.1063(d)(2)); AND ii. Visually inspecting the floating roof deck, deck fittings, and rim seals of each IFR either each time the storage tank is completely emptied and degassed or every 10 years, whichever occurs first (§ 63.1063(c)(1), (d)(1), and (e)); AND iii. Keeping the tank records required in § 63.1065.
2. External floating roof (EFR) storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity, and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5.	a. Install a floating roof designed and operated according to the applicable specifications in § 63.1063(a) and (b).	i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each EFR either each time the storage tank is completely emptied and degassed or every 10 years, whichever occurs first (§ 63.1063(c)(2), (d), and (e)); AND ii. Performing seal gap measurements on the secondary seal of each EFR at least once every year, and on the primary seal of each EFR at least every 5 years (§ 63.1063(c)(2), (d), and (e)); AND iii. Keeping the tank records required in § 63.1065.
* * * * * * *		
4. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. Ensure that organic liquids are loaded into transport vehicles in accordance with the requirements in Table 4 to this subpart, items 5 or 6, as applicable.	i. Ensuring that organic liquids are loaded into transport vehicles in accordance with the requirements in Table 4 to this subpart, items 5 or 6, as applicable.
	b. Install and, during the loading of organic liquids, operate a vapor balancing system.	i. Monitoring each potential source of vapor leakage in the system quarterly during the loading of a transport vehicle or the filling of a container using the methods and procedures described in the rule requirements selected for the work practice standard for equipment leak components as specified in Table 4 to this subpart, item 4. An instrument reading of 500 ppmv defines a leak. Repair of leaks is performed according to the repair requirements specified in your selected equipment leak standards.
	c. Route emissions to a fuel gas system or back to a process.	i. Continuing to meet the requirements specified in § 63.984(b).
5. Equipment leak component, as defined in § 63.2406, that operates in organic liquids service at least 300 hours per year.	a. Comply with the requirements of 40 CFR part 63, subpart TT, UU, or H.	i. Carrying out a leak detection and repair program in accordance with the subpart selected from the list in item 5.a of this table.
* * * * * * *		

26. Table 11 to Subpart EEEE of Part 63 is revised to read as follows:

TABLE 11 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR REPORTS

[As stated in § 63.2386(a) and (b), you must submit compliance reports and startup, shutdown, and malfunction reports according to the following table]

You must submit . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report, or Periodic Report	a. The information specified in § 63.2386(c), (d), (e). If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSM plan, the report must also include the information in § 63.10(d)(5)(i); AND	Semiannually, and it must be postmarked by January 31 or July 31, in accordance with § 63.2386(b).

TABLE 11 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR REPORTS—Continued

[As stated in § 63.2386(a) and (b), you must submit compliance reports and startup, shutdown, and malfunction reports according to the following table]

You must submit . . .	The report must contain . . .	You must submit the report . . .
	b. The information required by 40 CFR part 63, subpart TT, UU, or H, as applicable, for pumps, valves, and sampling connections; AND	See the submission requirement in item 1.a of this table.
	c. The information required by § 63.999(c); AND	See the submission requirement in item 1.a of this table.
	d. The information specified in § 63.1066(b) including: notification of inspection, inspection results, requests for alternate devices, and requests for extensions, as applicable.	See the submission requirement in item 1.a of this table.
2. Immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period, and you took an action that was not consistent with your SSM plan.	a. The information required in § 63.10(d)(5)(ii)	i. By letter within 7 working days after the end of the event unless you have made alternative arrangements the permitting authority (§ 63.10(d)(5)(ii)).

28. Table 12 to Subpart EEEE of Part 63 is amended by revising entries § 63.6(e)(3), § 63.7(g), § 63.9(h)(1)–(6), § 63.9(j), and § 63.10(e)(3)(iv)–(v) to read as follows:

TABLE 12 TO SUBPART EEEE OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE

* * * * * * *

Citation	Subject	Brief description	Applies to subpart EEEE
*	*	*	*
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction (SSM) Plan.	Requirement for SSM plan; content of SSM plan; actions during SSM.	Yes; however, the 2-day reporting requirement in paragraph § 63.6(e)(3)(iv) does not apply and § 63.6(e)(3) does not apply to emissions sources not requiring control.
*	*	*	*
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the notification of compliance status (NOCS); keep data for 5 years.	Yes; however, performance test data is to be submitted with the NOCS according to schedule specified in § 63.9(h)(1)–(6) of this table.
*	*	*	*
§ 63.9(h)(1)–(6)	Notification of Compliance Status.	Contents due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes; however, there are no opacity standards and all initial NOCS, including all performance test data, are to be submitted at the same time, either within 240 days after the compliance date or within 60 days after the last performance test demonstrating compliance has been completed, whichever occurs first.
*	*	*	*
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes; except for emission sources not required to be controlled as specified in § 63.2343.

TABLE 12 TO SUBPART EEEE OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

Citation	Subject	Brief description	Applies to subpart EEEE
*	*	*	*
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports.	Requirement to revert to quarterly submission if there is an excess emissions or parameter monitoring exceedance (now defined as deviations); provision to request semi-annual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emissions (now defined as deviations), report contents in a statement that there have been no deviations; must submit report containing all of the information in §§ 63.8(c)(7)–(8) and 63.10(c)(5)–(13).	Yes.
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