



# Federal Register

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**Wednesday,  
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## **Part II**

# **Environmental Protection Agency**

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**40 CFR Part 63**

**Clarifications to Existing National  
Emissions Standards for Hazardous Air  
Pollutants Delegations' Provisions;  
Proposed Rule**

**ENVIRONMENTAL PROTECTION  
AGENCY**
**40 CFR Part 63**
**[FRL-7122-3]**
**RIN 2060-AJ26**
**Clarifications to Existing National  
Emissions Standards for Hazardous  
Air Pollutants Delegations' Provisions**
**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed amendments.

**SUMMARY:** As part of the section 112(l), "Approval of State Programs and Delegation of Federal Authorities" rulemaking process, EPA (we) agreed to clarify which portions of the existing national emission standards for hazardous air pollutants (NESHAP) contain authorities that can be delegated to State, Local, and Tribal (S/L/T) agencies (September 14, 2000). Today's rulemaking clarifies which parts of the existing NESHAP can be delegated to S/L/T agencies by adding or modifying a section in each NESHAP to describe the authorities that can be delegated to S/L/T agencies and those that must be retained by us. In addition, to further clarify which portions of the NESHAP are delegable, some NESHAP standards sections were slightly reorganized or rephrased to separate delegable from non-delegable authorities. These clarifications do not change any substantive NESHAP requirements for industrial sources. This action does not reopen any of the other requirements in these NESHAP, nor are we accepting comments beyond the scope of this proposal.

**DATES:** *Comments.* Submit comments on or before March 18, 2002.

*Public Hearing.* If anyone contacts EPA requesting to speak at a public hearing by February 5, 2002, a public hearing will be held on February 15, 2002.

**ADDRESSES:** *Comments.* Written comments should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-2000-57, Room M-1500, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The EPA requests that a separate copy also be sent to Ms. Pam Smith, USEPA OAQPS/ITPID (C339-03), Research Triangle Park, North Carolina 27711, telephone number (919) 541-0641, facsimile (919) 541-5509 or e-mail [smith.pam@epa.gov](mailto:smith.pam@epa.gov).

*Public Hearing.* If a public hearing is held, it will be held at 10 a.m. in the

EPA's Office of Administration's Auditorium in Research Triangle Park, North Carolina, or at an alternate site nearby.

*Docket.* Docket No. A-2000-57 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tom Driscoll, USEPA OAQPS/ITPID (C339-03), Research Triangle Park, North Carolina 27711, telephone (919) 541-5135, or electronic mail at [driscoll.tom@epa.gov](mailto:driscoll.tom@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Comments.* Comments and data may be submitted by electronic mail (e-mail) to: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1, or Corel® 8 file format. All comments and data submitted in electronic form must note the docket number (Docket No. A-2000-57). No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Docket Center, 4930 Old Page Rd., Building C, Room 530A, Research Triangle Park, NC 27709. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

*Public Hearing.* Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact, Ms. Pam Smith, USEPA OAQPS/ITPID (C339-03), Research Triangle Park, North Carolina 27711, telephone number (919) 541-0641 at least 2 days in advance 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 these proposed emission standards.

*Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (Act).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

*Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of these proposed amendments are also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the amendments will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding accessing the TTN is needed, call the TTN HELP line at (919) 541-5384.

*Regulated Entities.* Entities potentially affected by this rule are S/L/T agencies that voluntarily request delegation of section 112 rules, emissions standards, or requirements. The procedures and criteria for requesting and receiving delegation are in § 63.90 through § 63.97, excluding § 63.96, of 40 CFR 63 subpart E. Facilities that are subject to the individual subparts proposed for modification should not be affected by the proposed changes, which clarify the delegation requirements between EPA and the S/L/T agencies.

*Outline.* The information presented in this preamble is organized as follows:

- I. Background
  - A. How do we delegate section 112 standards to you?
  - B. When a standard is delegated, can you change any of the requirements?
  - C. What is the purpose of this rulemaking?

- D. What are the types of changes proposed?
- E. Do these clarifications change any substantive requirements to sources?
- F. Why do we need a consistent "Implementation and Enforcement" section in each NESHAP?
- G. Once NESHAP are delegated, does the S/L/T agencies' enforcement authority replace EPA's authority?
- H. Does today's rulemaking affect prior delegations of these part 63 NESHAP (maximum achievable control technology (MACT) standards)?
- II. Overview of Proposed Changes
- A. What categories of changes are we proposing?
- B. What clarifications have we made to individual subparts?
- III. Administrative Requirements
- A. Docket
- B. Executive Order 12866—Regulatory Planning and Review
- C. Executive Order 13132—Federalism
- D. Executive Order 13175—Consultation and Coordination with Indian Tribal Governments
- E. Paperwork Reduction Act
- F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq
- G. Unfunded Mandates Reform Act of 1995
- H. Executive Order 13045—Protection of Children from Environmental Health Risks and Safety Risks
- I. National Technology Transfer and Advancement Act of 1995
- J. Executive Order 13211—Energy Effects

## I. Background

### A. How Do We Delegate Section 112 Standards to You?

The requirements in 40 CFR part 63, subpart E provide a framework for you, the S/L/T agencies, to request and receive delegation of the NESHAP we, EPA, develop under section 112 of the Act. Once you accept delegation, you are responsible for implementing and enforcing the NESHAP for sources in your jurisdiction.

### B. When a Standard Is Delegated, Can You Change Any of the Requirements?

In addition to the overall implementation and enforcement authority conferred by the delegation, there are separate parts of each section 112 requirement that we cannot delegate to you. Each individual NESHAP, for example, contains requirements that are considered the standards' and are, therefore, not delegable in terms of you making changes to them. Because the Administrative Procedures Act requires us to approve alternative emission limitations or control requirements through Federal rulemaking, we cannot delegate our rulemaking authority to you. More specifically, any requests by sources for alternative standards must be considered by us and acted upon in

a notice and comment rulemaking. Additionally, we cannot delegate authorities that may alter the stringency of the standard, that require Federal oversight for national consistency or that may require Federal rulemaking. Generally, requests by you to revise standards for the source category (or portions thereof) must be addressed through the subpart E rulemaking process for alternative standards. Please note that nothing in the section or this rulemaking usurps your authority to have more stringent state program requirements, such as more stringent emission limitations, apply to sources subject to NESHAP.

However, the authorities in other sections of the rules may be delegable, and approval of alternatives to these requirements may be exercised by you, once you have been delegated the NESHAP through subpart E (straight delegation, § 63.91). Similar authorities may also be in the 40 CFR part 63, subpart A General Provisions, which are incorporated into the majority of the NESHAP, and they contain provisions for the consideration of alternatives to testing, monitoring, reporting, and recordkeeping requirements on a case-by-case basis. Section 63.91(g)(1)(i) of 40 CFR part 63, subpart E further clarifies that "Category I" changes, including minor and intermediate changes to testing, monitoring, recordkeeping, and reporting requirements may be considered and approved by delegated S/L/T agencies. There are similar discretionary authorities, to those mentioned directly above, in each NESHAP that may also be delegated to you. Please note, each NESHAP being revised in today's rulemaking will describe those authorities that will be retained by EPA. All other authorities in those NESHAP are delegable to S/L/Ts.

### C. What Is the Purpose of This Rulemaking?

As a part of the large regulatory and policy effort to clarify and streamline delegation of part 63 requirements, we agreed to clarify which portions of the existing 40 CFR part 63 NESHAP contain authorities that can be delegated to you (65 FR 55810). In order to achieve this objective, we are proposing slight changes to many of the existing NESHAP. These clarifications will allow you to approve alternatives to the delegable authorities, including category I authorities listed in § 63.91(g)(i), instead of requiring a rulemaking by the EPA to approve the site-specific alternatives. Many of the existing NESHAP lack a clear delegation section which this proposal would remedy.

This is also an opportunity to make the format of the existing NESHAP more consistent with the format used for NESHAP.

### D. What Are the Types of Changes Proposed?

The existing NESHAP were promulgated before we developed a consistent rule format, so each one has a slightly different format. Due to these inconsistencies, each NESHAP may need one or more clarifications, listed below, to ease delegation:

- Addition or modification of a section (Implementation and Enforcement) in each NESHAP describing the authorities that can be delegated to you and those that must be retained by us.
- Reorganization of the standards sections in NESHAP to separate compliance assurance measures from actual standards.
- Minor rephrasing of work practices and other standards developed under the authority of section 112(h) of the Act to allow approval of delegable testing, monitoring, reporting, and recordkeeping authorities by S/L/Ts and without rulemaking by us.

### E. Do These Clarifications Change Any Substantive Requirements to Sources?

None of these clarifications change any substantive requirements for sources subject to these subparts. These clarifications are intended only to allow you to clearly identify which authorities you may be delegated through 40 CFR part 63, subpart E. As stated earlier, we are not accepting comment on any other provision of these subparts that is outside the scope of this proposal.

### F. Why Do We Need a Consistent "Implementation and Enforcement" Section in Each NESHAP?

We recognized a need for more consistent formats between the standards, primarily because more than one NESHAP may apply to an individual facility. Consistent NESHAP formats will help you write comprehensive permits for these sources and allow owners and operators to focus on one rather than multiple regulatory formats. Consistent formats will also aid in determining compliance within sources; especially those facilities that are subject to more than one NESHAP. Therefore, we developed a straightforward format which we are now using in NESHAP to address these concerns and enhance the readability of the rules. We recognized that the format should include a section to describe the authorities for which you are allowed to approve alternatives to a NESHAP once

you have received delegation of the standard. This section is termed "Implementation and Enforcement."

Many existing NESHAP do not currently contain a section explaining which authorities must be retained by EPA and which can be delegated to S/L/T agencies. In other instances, the NESHAP contain an explanation of these authorities in a section termed "Delegation of Authority" which vary widely in form and in content. We are proposing to amend both the existing subparts that do contain and those that do not contain delegation provisions in today's rulemaking. We have incorporated an "Implementation and enforcement" section into the NESHAP that do not already contain such a section. As mentioned above, we revised the delegation provisions in subparts that currently contain a "Delegation of Authority" section to conform with the "Implementation and enforcement" section format.

*G. Once NESHAP Are Delegated, Does the S/L/T Agencies' Enforcement Authority Replace EPA's Authority?*

Throughout this preamble, we state that once NESHAP are delegated to you, then you will have the authority to implement and enforce those rules for sources in your jurisdiction. However, nothing in this language is intended to suggest that your enforcement agencies have replaced our Federal authority to enforce and implement those rules. We remain partners with you in enforcing the NESHAP.

*H. Does Today's Rulemaking Affect Prior Delegations of These Part 63 NESHAP (MACT Standards)?*

In many cases, you have already accepted delegation of these NESHAP and, consequently, you are currently implementing and enforcing them. We do not believe that today's rulemaking adversely affects existing delegations of these NESHAP to you. For the most part, today's rulemaking clarifies which of the authorities in each existing NESHAP can, and cannot, be delegated to you, so that you can approve or disapprove alternative requirements.

In all prior delegations, specific authorities in the NESHAP were generally not identified as being delegated. Instead, the NESHAP have been generally delegated in their entirety. For example, when our Regional Offices delegate a NESHAP or MACT standard through straight delegation (see 65 FR 55810, September 14, 2000) to a S/L/T, they reference the whole NESHAP, such as Subpart M—National Perchloroethylene Air Emission Standards for Dry Cleaning

Facilities, in any rulemaking or documents. They usually do not reference a particular authority within the NESHAP, such as § 63.324(d), "[E]ach owner or operator of a dry cleaning facility shall keep receipts of perchloroethylene purchases \* \* \*" in any delegation. Therefore, today's rulemaking will not affect your existing part 63 NESHAP delegation.

Potential issues may occur where you have already acted on the authorities you believed you had been delegated. For example, in Subpart HH, the delegation of authority paragraph in § 63.776 does not withhold the delegation of any of the standards' sections. Therefore, you may have exercised the authority to approve alternative emissions controls or limitations in this example. As mentioned above, you cannot approve alternatives to NESHAP's emissions controls or limitations because they must be established through national rulemaking. Only we can approve alternatives to emissions controls or limitations through national rulemaking.

If you have inadvertently approved alternatives to NESHAP's emissions controls or limitations for a specific source, then the appropriate EPA Regional Office must be notified of this approval. Our Regional Office will then work with you and our Office of Air Quality Planning and Standards, Office of Enforcement and Compliance Assurance, and Office of General Counsel to reevaluate the alternative through § 63.6 or the provisions in 40 CFR part 63, subpart E. If you have any questions regarding inadvertent approvals, please contact your appropriate EPA Regional Office.

## II. Overview of Proposed Changes

### A. What Categories of Changes Are We Proposing?

#### 1. Adding an "Implementation and Enforcement" Section

The first category of changes involves adding a section that describes non-delegable authorities or changing current delegation sections to conform to a consistent format. The new "Implementation and enforcement" sections cite the rule sections or requirements for which you may not approve alternatives (i.e., non-delegable authorities). The authority to make changes to those sections or requirements is retained by us and includes the authority to approve any alternatives to emissions standards; including their applicability requirements. Conversely, any authority not expressly reserved for us, in these

paragraphs, can be delegated to you so that you can exercise these authorities.

As part of the recent subpart E rulemaking (65 FR 55810), we have clarified which of the specific General Provisions authorities regarding alternative requirements could not be delegated to you because they would be nationally significant or would alter the stringency of an underlying standard and, thus, could not be delegated to you. We divided the General Provisions discretionary authorities into two groups, based upon the relative significance of each type of decision. Category I contains those authorities which can be delegated. We believe that the EPA Regional Office retains the ability to request review of these decisions, although we expect that this authority will be exercised infrequently. Category II contains those authorities which cannot be delegated.

In general, we believe that where possible, authority to make decisions which are not likely to be nationally significant or to alter the stringency of the underlying standard, such as minor changes to test methods, should be delegated to those with the most expertise in dealing with these kinds of decisions, the S/L/Ts; resulting in minimal involvement by us. Section 63.91(g)(1)(i) of subpart E lists the authorities in category I, i.e., those authorities which may be delegated.

Section 63.91(g)(2)(ii) of subpart E lists the authorities which may not be delegated in Category II, which includes those decisions which generally may result in a change to the stringency of the underlying standard, which is likely to be nationally significant, or which may require a **Federal Register** notice when approving an alternative. These authorities, as mentioned previously, must always be retained by us, and cannot be delegated to you. Consistent with this approach, we must retain the authority to approve major alternatives to test methods, monitoring, recordkeeping, and reporting.

With this proposal, we are not requesting comment on the appropriateness of our decisions regarding the classification of General Provisions authorities into Category I or II. That decision was recently finalized (65 FR 55810) based on public comment and internal discussion. However, the changes proposed today in the individual subparts reference the subpart E classifications to ensure that they conform with this similar framework. We are requesting comment on whether the individual provisions in the existing subparts are appropriately included in this framework or whether

there are subpart-specific reasons for an alternative scheme.

## 2. Reorganizing Sections To Separate Compliance Assurance Measures From Actual Standards

The NESHAP contain two major types of requirements: standards and delegable requirements. The standards are the essential requirements that implement EPA's authority under the Act to establish hazardous air pollutant (HAP) emission standards. These standards may be emission limitations (emission limits, operating limits, opacity limits, and visible emission limits) and/or work practice standards (design, equipment, work practices, and operational standards). The authority to approve alternatives to any of the promulgated standards must be retained by us. Requirements that are essential to ensuring that the standards are achieved as EPA intended, such as applicability requirements and compliance dates, are also retained.

The delegable requirements are also essential, but they offer some flexibility in their implementation. For example, you can approve minor and intermediate changes to testing, monitoring, reporting, and recordkeeping provisions, as long as they are at least as stringent as EPA requirements. For example, a source may request to inspect air pollution control equipment on a different schedule than that contained in the rule for source-specific reasons. An alternative inspection scheme may be accepted if the proposed schedule meets the intent of the original requirements to ensure the equipment is inspected regularly and repaired in a timely fashion.

In another instance, a source may wish to submit reports to coincide with the schedule of other required reports. A change in the schedule for submission of reports would be considered a minor change to reporting, and the authority to approve these types of minor changes is one which can be delegated to the S/L/T agencies.

In other cases, the S/L/T agency is given authority to make changes in the implementation of a requirement, but not to change the actual requirement itself. For example, some NESHAP require operation and maintenance plans. Here the S/L/T agency is given the authority to approve some changes in the content of the plan, but does not have the authority to waive the requirement that the plan must be created and followed. Additionally, some newly named operation and maintenance sections contain provisions which are similar to work

practices, in that they can potentially affect emissions, such as the requirement to operate and maintain the source's equipment in keeping with good air pollution control practices, or the requirement to correct malfunctions as soon as practicable. You may not approve alternatives that are less stringent than the criteria outlined in the subpart. However, you may require more stringent provisions, such as not permitting excess emissions during malfunctions at all. Where an operations and maintenance plan is required, it usually allows the source considerable latitude in designing the plan, so long as the plan meets certain criteria. You may approve alternatives to the plan that are more stringent than the criteria listed, but you may not approve elimination of major criteria, such as specifying the process and control system monitoring equipment.

As a second example, most NESHAP include requirements to monitor certain specified control equipment operating parameters and to set enforceable operating limits for these same parameters based on data from the performance test. In this case, the S/L/T may be delegated the authority to approve changes to the ranges for the operating limits based on new performance test data and/or other relevant information submitted by the source. However, we retain the authority to approve modifications to requirements affecting which parameters are monitored (e.g., EPA would approve appropriate parameters to monitor for a control device not addressed in a NESHAP).

A more detailed discussion and additional examples of changes that may be made to the delegable requirements are presented in the preambles to the proposed and final subpart E rule (64 FR 1880) and (65 FR 55822).

In most NESHAP, the non-delegable authorities and the delegable authorities are separated into different sections of the rule. However, in a few NESHAP, these authorities are mixed within a single section; in the standard section in some NESHAP. In this case, we identified and separated out (where possible) the paragraphs that contain requirements for which you may not approve alternatives in the "Implementation and enforcement" section.

In other situations, the delegable and non-delegable authorities are not clearly separated into different sections or into different paragraphs within a standards section. In these cases, we have restructured the standards sections to separate the delegable and non-

delegable authorities. This restructuring was accomplished by moving the delegable authorities to more appropriate sections of the rule, such as "Monitoring requirements" or "Recordkeeping requirements" sections. As a result, the "Implementation and enforcement" section more clearly shows which authorities you may not be delegated by simply listing the sections containing those authorities.

## 3. Proposing Minor Work Practices' Amendments To Allow Approval of Alternatives Without EPA Rulemaking

In some MACTs, provisions for which you could or should have the authority to approve alternatives are written in a way that precludes you from approving alternatives to these practices. Authority to approve alternatives to work practice standards or any other emission limitation established under section 112(d) or (h) of the Act cannot be delegated to you. However, some work practice requirements could be written more broadly to allow alternative practices to be implemented or these work practice requirements could be written to expressly state that you may approve alternative practices.

We have rewritten these work practice standards, where possible, to specifically state that you have the authority to approve equivalent or more stringent alternative compliance assurance measures. The sections containing these requirements are not listed as authorities retained by us in the implementation and enforcement section. These kinds of changes are necessary only for a small number of subparts.

An example of the need for broader flexibility in these requirements is presented in subpart GG, the Aerospace NESHAP. This subpart includes a requirement that solvent-laden rags be stored in closed containers with tight-fitting lids. This requirement prohibits the use of other methods for storing solvent-laden rags to prevent HAP emissions, such as storing them in a room that is vented to a control device. This practice may be as effective as the use of a closed container. However, as subpart GG is currently written, sources must apply to our Office of Air Quality Planning and Standards to have such an alternative work practice approved as equivalent. In turn, we must approve this alternative work practice through rulemaking. In this and other instances where this rulemaking procedure does not seem necessary, we have rephrased the work practice standard to specifically state that S/L/T agencies may determine whether alternatives are equivalent.

*B. What Clarifications Have We Made to Individual Subparts?*

1. Subpart F, National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry

Subpart F contains the primary MACT standards of the Hazardous Organic NESHAP (HON). This regulation is one subpart in a group of subparts that make up the HON regulation, where each subpart regulates a group of emission points. These unit-specific subparts were written to collectively regulate the production of 300 defined organic chemicals, but have subsequently been used as a reference in other MACT regulations for some requirements. Therefore, for cross-referencing and delegation purposes, it is important for each of these subparts to have adequate separation of delegable versus non-delegable authorities and to have delegation provisions that are specific to each subpart.

In some instances, this regulation is not clear about separating delegable authorities. For example, § 63.104 contains monitoring requirements associated with leak detection and repair. However, these types of requirements actually constitute an integral part of the standard in leak detection and repair programs. The leak detection and repair requirements of subpart F fall into this category, so we are not proposing to delegate these authorities.

To clarify which authorities are delegated, we have replaced the existing delegation paragraph with "Implementation and enforcement" section language. These delegation provisions show that delegation of authority to approve alternatives is not given to S/L/T agencies for the requirements in §§ 63.100, 63.102, and 63.104, which contain applicability requirements, general standards, and standards for heat exchangers. In addition, this rule requires that affected sources meet specific requirements that are contained in other subparts. We have clarified that delegation of those requirements will occur according to the delegation provisions of the referenced subparts.

2. Subpart G, HON Standards for Process Vents, Storage Vessels, Transfer Operations, and Wastewater

Subpart G contains the HON MACT standards for process vents, storage vessels, transfer operations, and wastewater. As described above, it is important for cross-referencing and delegation purposes for each of the HON subparts to have adequate separation of

compliance assurance measures from the standards and to have a delegation paragraph specific to the requirements of each subpart.

In some instances, this regulation does not adequately separate delegable versus non-delegable authorities. For example, §§ 63.133–63.139 contain inspection requirements and schedules for problem detection and repair. However, these types of requirements actually constitute an integral part of the standard in leak detection and repair programs. The leak detection and repair requirements of subpart G fall into this category, so we are not proposing to delegate these authorities.

This subpart does not currently contain its own delegation provisions. However, § 63.121 describes procedures that should be followed to request the use of alternative means of emissions limitation for storage vessels. Also, the delegation provisions in subpart F address delegation of some subpart G requirements. To clarify which authorities are delegated, we propose to add "Implementation and enforcement" section for delegation provisions to this subpart in a new section, § 63.153. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.112–63.113, 63.119, 63.126, 63.132–63.140, and 63.148–63.149, which contain the emission standards; for the requirements in § 63.110 which contains the applicability requirements for this rule; and § 63.150(i)(1)–(4), which contains requirements to request permission to take credit for use of a control technology that is different in use or design from the reference control technology. To retain the intent of the original language of § 63.121, the new delegation paragraph cross-references the section identifying the procedures to follow in requesting an alternative means of emission limitation for storage vessels. In addition, this rule requires that affected sources meet specific requirements that are contained in other subparts. We have clarified that delegation of those requirements will occur according to the delegation provisions of the referenced subparts. Where subpart G requires that affected sources meet specific requirements that are contained in other subparts, but makes certain changes to those provisions, we have clarified that those provisions should be changed accordingly and then delegated according to the delegation provisions of the referenced subpart.

3. Subpart H, HON for Organic Hazardous Air Pollutants for Equipment Leaks

Subpart H is the MACT standard for equipment leaks at facilities regulated by the HON. As described above, it is important for cross-referencing and delegation purposes for each of the HON subparts to have adequate separation of compliance assurance measures from the standards and to have a delegation paragraph specific to the requirements of each subpart.

In some instances, this subpart does not adequately separate delegable versus non-delegable authorities. Several standards sections contain monitoring, inspection, recordkeeping, and reporting requirements associated with leak detection and repair. However, we believe that these types of requirements actually constitute an integral part of the standard in leak detection and repair programs. The leak detection and repair requirements of subpart H fall into that category, so we are not proposing to delegate these authorities.

This subpart does not have its own delegation provisions. To clarify which authorities are delegated, we have added "Implementation and enforcement" section in a new section, § 63.183. The section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.160, 63.162–63.176, and 63.178–63.179, which contain the applicability provisions, emissions standards, standards for quality improvement programs, and provisions for alternative emission limitations. The reader is also instructed to follow the requirements of § 63.177 to request an alternative means of emission limitation for batch processes and enclosed-vented process units.

This subpart also requires affected sources to meet specific requirements that are contained in other subparts. We have clarified in the implementation and enforcement language that delegation of those requirements will occur according to the delegation provisions of the referenced subparts. Where subpart H requires that affected sources meet specific requirements that are contained in other subparts, but makes certain changes to those provisions, we have clarified that those provisions should be modified accordingly and then delegated according to the delegation provisions of the referenced subpart.

#### 4. Subpart I, HON for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks

Subpart I is the negotiated MACT standard for equipment leaks at facilities regulated by the HON. As described above, it is important for cross-referencing and delegation purposes for each of the HON subparts to have adequate separation of compliance assurance measures from the standards and to have a delegation paragraph specific to the requirements of each subpart.

In some instances, this subpart does not adequately separate compliance assurance measures from the standards. Section 63.192, "Standard," contains performance test, recordkeeping, reporting, and other provisions that are considered delegable. Since the paragraphs containing these provisions are reasonably separable from the other standards in the section, we have indicated that the requirements in paragraphs § 63.192(c)–(d), (f)–(g), and (k)–(m) are not part of the standard and, thus, are delegable. Again, we are not changing the substance of these requirements and are, thus, accepting comments only on the delegation of them.

To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with "Implementation and enforcement" section. The section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.190 and 63.192(a)–(b), (e), (h)–(j), which contain the applicability provisions and emissions standards for this subpart. In addition, this subpart requires that affected sources meet specific requirements that are contained in other subparts. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of the referenced subparts.

#### 5. Subpart L, National Emission Standards for Coke Oven Batteries

Subpart L is the MACT standard for coke oven batteries. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with "Implementation and enforcement" section. In the delegation section, we retain the authorities in §§ 63.300 and 63.302–63.308, which contain the applicability provisions and emissions standards for by-product and nonrecovery coke oven batteries, compliance date extensions, coke oven

doors equipped with sheds, work practice standards, bypass/bleeder stacks, and collecting mains.

The original delegation provisions contained language addressing failure of delegated agencies to carry out required inspections and tests. We retained this language in the revised delegation provisions, but added language to it and to § 63.609, "Performance tests and procedures," explaining that the Administrator may also withdraw delegation of authority pursuant to the provisions of § 63.96.

#### 6. Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

Subpart M is the MACT standard for perchloroethylene dry cleaning operations. This subpart does not separate delegable authorities from non-delegable ones in some instances. Section 63.322, "Standards," contains inspection and repair requirements for equipment leaks in paragraphs (k)–(n), which are considered delegable monitoring authorities for this subpart. Since these paragraphs are reasonably separable from the other standards in the section, we have indicated that the requirements in paragraphs (k)–(n) are not considered part of the standard and, thus, are delegable authorities.

This subpart also does not currently contain a delegation section. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.326. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.322(a)–(j), which contain the emissions and work practice standards for this rule. This section also shows that delegation of authority to approve alternatives is not given to S/L/T agencies for the applicability provisions in § 63.320. Finally, to retain the intent of the original language of § 63.325, which identifies procedures to demonstrate equivalence of an alternative control technology, the delegation provisions cross-reference the section that identifies procedures to follow in requesting use of an alternative control technology.

#### 7. Subpart N, National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

Subpart N is the MACT standard for chromium electroplating. This subpart does not separate delegable requirements from non-delegable

standards in one instance. Section § 63.342(f) contains operation and maintenance requirements, which are inappropriately termed "work practice standards." We have replaced the term "work practice standards" with "operation and maintenance practices" to clarify that these authorities are delegable requirements rather than actual standards and made similar conforming changes elsewhere in the rule, as needed. Since these paragraphs are reasonably separable from the other standards in the section, we have indicated that the authorities in § 63.342(f) are not considered part of the standard and, thus, are delegable.

This rule does not currently contain delegation provisions. To clarify which authorities are delegated, we have added "Implementation and enforcement" section for the delegation provisions in a new section, § 63.348. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the authorities in §§ 63.340 and 63.342(a)–(e) and (g), which contain the applicability provisions and the emission standards for hard chromium electroplating tanks, decorative chromium electroplating tanks using a chromic acid bath and chromium anodizing tanks, and decorative chromium electroplating tanks using a trivalent chromium bath.

#### 8. Subpart O, Ethylene Oxide Emissions Standards for Sterilization Facilities

Subpart O is the MACT standard for the ethylene oxide sterilization industry. This subpart does not currently contain delegation provisions. To clarify which authorities are delegated, we have added "Implementation and enforcement" section for the delegation provisions in a new section, § 63.368. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.360 and 63.362, which contain the applicability provisions and emission standards for this rule.

#### 9. Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers

Subpart Q is the MACT standard for industrial cooling towers. This subpart does not currently contain delegation provisions. To clarify which authorities are delegable, we have added "Implementation and enforcement" section for the delegation provisions in a new section, § 63.407. This section, as proposed, indicates that delegation of authority to approve alternatives cannot

be given to S/L/T agencies for the authorities in §§ 63.400 and 63.402–63.403, which contain the applicability provisions, the emissions standard, and the compliance dates for this subpart.

#### 10. Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)

Subpart R is the MACT standard for gasoline distribution. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.420 and 63.422–63.424, which contain the applicability provisions and emissions standards for loading racks, storage vessels, and equipment leaks.

To retain the intent of the original delegation provisions, the revised delegation section also retains delegation of the authority to approve major alternatives to the monitoring specified in § 63.427(a)(1)–(4) per § 63.427(a)(5), which contains provisions for monitoring an alternative operating parameter. To retain the intent of the original language of § 63.426, the revised delegation paragraph cross-references that section for procedures to follow in requesting an alternative means of emission limitation for storage vessels.

#### 11. Subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry

Subpart S is the MACT standard for pulp and paper production. This subpart does not separate delegable requirements from non-delegable standards in some instances. Section § 63.450, "Standards for enclosures and closed-vent systems," contains monitoring and recording requirements for closed vent system bypass lines. We have removed the monitoring and recording authorities from § 63.450(d)(1) and placed them in § 63.454(e), "Recordkeeping requirements." However, we added a reference in § 63.450(d)(1) that the provisions of § 63.454(e) must be followed.

This subpart contains delegation provisions that are not consistent with "Implementation and enforcement" section. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to

S/L/T agencies for the requirements in §§ 63.440, 63.443–63.437 and 63.450, which contain the applicability provisions and the emissions standards for pulping systems, bleaching systems, kraft pulping process condensates, clean condensate alternatives, and enclosures and closed-vent systems. This subpart also requires that provisions of another subpart be followed. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of the subpart that is referenced.

#### 12. Subpart T, National Emission Standards for Halogenated Solvent Cleaning

Subpart T is the MACT standard for halogenated solvent cleaning. We have restructured the work practices in § 63.462 to give S/L/T agencies greater flexibility to approve alternatives that will still meet the intent of the standard. To create this flexibility we have added paragraph (e) to § 63.462. In addition, § 63.463, "Batch vapor and in-line cleaning machine standards," contains recordkeeping provisions in § 63.463(e)(2)(ix)(B). We have restructured this section to refer to § 63.467 "Recordkeeping requirements," for these provisions in § 63.467(a)(6).

This subpart also does not currently contain delegation provisions. To clarify which authorities are delegated, we added "Implementation and enforcement" section in a new section, 63.470. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.460, 63.462(a)–(d), and 63.463–63.464, which contain the applicability provisions and the emissions standards for batch cold cleaning machines and batch vapor and in-line cleaning machines.

Section 63.469 describes procedures that must be followed to request the use of alternative equipment or an alternative work practice. Section 63.460(f) retains delegation of this section to the Administrator and also retains § 63.463(d)(9), which requires the owner or operator to maintain each solvent cleaning machine as recommended by the manufacturer or to use alternative practices that have been approved by the Administrator. The delegation provisions added in § 63.470 cross-reference § 63.469 for procedures to follow in requesting an alternative means of emission limitation. We have removed § 63.460(f), since the requirements of that paragraph are now

listed in § 63.470 as authorities that are not delegated.

#### 13. Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins

Subpart U is the MACT standard for group I polymers and resins. This subpart does not separate compliance assurance measures from the standards in some instances. Several standards sections contain provisions that are considered delegable requirements. Since the paragraphs containing these delegable provisions are reasonably separable from the standards in the section, we have indicated in the delegation provisions that the requirements in paragraphs §§ 63.483(d), 63.485(l), (t) and (v), 63.488(b)(5)(i)–(iii), 63.500(a)(4)–(5), (c)–(e), and 63.502(g)–(i), (j), and (n) are not considered part of the standard and, thus, are authorities that may be delegated to S/L/T agencies.

This subpart also does not currently contain delegation provisions. To clarify which authorities are delegable, we have added "Implementation and enforcement" section for the delegation provisions in a new section, § 63.507. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.480–63.481, 63.483(a)–(c), 63.484, 63.485(a)–(k), (m)–(s), (u), 63.486–63.487, 63.488(a), (b)(1)–(4), (5)(iv)–(v), (6)–(7), (c)–(i), 63.493–63.494, 63.500(a)(1)–(3), (b), 63.501, and 63.502(a)–(f), (i), (k)–(m), and 63.503, which contain applicability provisions, compliance dates, the emission standards, and the emissions averaging provisions for this subpart. In addition, this subpart requires that affected sources meet specific requirements that are contained in other subparts. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of the referenced subparts. Where subpart U requires that affected sources meet specific requirements that are contained in other subparts, but makes certain changes to those provisions, we have clarified that those provisions should be changed accordingly and then delegated according to the delegation provisions of the referenced subpart. For example, subpart U references subpart G, §§ 63.113–63.116 but slightly changes these requirements. We clarify in this rulemaking that although subpart U changes these specific subpart G requirements for the purposes of subpart U, the delegation of these referenced



requirements follow the original delegation of subpart G.

#### 14. Subpart W, National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production

Subpart W is the group II polymers and resins MACT for epoxy resins and non-nylon polyamide production. This subpart does not currently contain delegation provisions. To clarify which authorities are delegable, we have added "Implementation and enforcement" section for the delegation provisions in a new section, § 63.529. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.520, 63.523 and 63.524, which contain the applicability provisions and the emissions standards for basic liquid and wet strength resins. In addition, this subpart requires provisions of another subpart, subpart H, to be followed. We have clarified that delegation of the requirements from the other subpart, subpart H, will occur according to the delegation provisions of the subpart that is referenced.

#### 15. Subpart X, National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting

Subpart X is the MACT standard for secondary lead smelting. We have restructured the work practices in § 63.545 to give S/L/T agencies greater flexibility in approving alternatives that still meet the intent of the standard by adding a paragraph to explain that either the Administrator or delegated S/L/T authorities may approve alternatives to the fugitive dust reduction practices in § 63.545(c).

This subpart also does not currently contain delegation provisions. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.551. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.541, and 63.543–63.545(a)–(e), which contain the applicability provisions and emissions standards for process sources, process fugitive sources, and fugitive dust sources.

#### 16. Subpart Y, National Emission Standards for Marine Tank Vessel Loading Operations

Subpart Y is the MACT standard for marine tank vessel loading operations. This subpart does not separate delegable requirements from non-delegable standards in some instances. Section

63.562, "Standards," contains requirements for an operation and maintenance plan in § 63.562(e) and its associated recordkeeping and reporting provisions are contained in § 63.562(d)(3), which are delegable authorities. We have removed the reporting and recordkeeping requirements for § 63.562 by deleting paragraph § 63.562(d)(3) and added those provisions to § 63.567, "Reporting and recordkeeping," by adding paragraph § 63.567(l). Since paragraph (e) is reasonably separable from the other standards in § 63.562, we have indicated in the implementation and enforcement provisions that the requirements in this paragraph are not considered part of the standard and, thus, are delegable.

This subpart also does not currently contain delegation provisions. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.568. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.560 and 63.562(a)–(d), which contain the applicability provisions and emission standards for this rule.

#### 17. Subpart AA, National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

Subpart AA is the MACT standard for the phosphoric acid manufacturing industry. This subpart does not currently contain delegation provisions. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.611. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.600, 63.602–63.604, and 63.609–63.610, which are the applicability provisions, the emission standards for existing and new sources and the operating requirements for wet scrubbing emission control systems, the compliance dates, and other requirements for this subpart.

#### 18. Subpart BB, National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants

Subpart BB is the MACT standard for phosphate fertilizers production. This subpart does not currently contain delegation provisions. To clarify which authorities are delegated, we have added the "Implementation and

enforcement" section for the delegation provisions in a new section, § 63.632. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.620, 63.622–63.624, and 63.629–63.631, which contain the applicability provisions, the emissions standards for existing and new sources, the operating requirements for wet scrubbing emission control systems, and the compliance dates and other requirements for this subpart.

#### 19. Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries

Subpart CC is the MACT standard for petroleum refineries. This subpart does not separate delegable requirements from non-delegable standards in some instances. Section 63.642, "General standards," contains recordkeeping, reporting, and other delegable requirements in paragraphs (a)–(f) and (m). Since these paragraphs are reasonably separable from the standards in the section, we have indicated that the requirements in these paragraphs are not considered part of the standard and, thus, are delegable.

This subpart also does not currently contain delegation provisions. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.655. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/Ts for the requirements in §§ 63.640, 63.642(a),

(g)–(l), 63.643, 63.646–63.648, and 63.649–63.652, which contain applicability provisions, standards for applicability determinations, process vents, storage vessels, wastewater, equipment leaks, connectors in gas/vapor and light liquid service, gasoline loading racks, marine vessel tank loading operations, and emissions averaging provisions. In addition, this subpart requires that affected sources meet specific requirements that are contained in other subparts. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of the referenced subparts. Where subpart CC requires that affected sources meet specific requirements that are contained in other subparts, but makes certain changes to those provisions, we have clarified that those provisions should be changed accordingly and then delegated according to the delegation provisions

of the referenced subpart. For example, subpart CC references subpart H, § 63.1182(c) but slightly changes these requirements. We clarify in this rulemaking that although subpart CC changes these specific subpart H requirements for the purposes of subpart CC, the delegation of these referenced requirements follow the original delegation of subpart H.

#### 20. Subpart DD, National Emission Standards for Hazardous Air Pollutants From Off-Site Waste and Recovery Operations

Subpart DD is the MACT standard for offsite waste and recovery operations. This regulation is the primary subpart in a group of subparts that make up the off-site waste and recovery operations regulation. The subsequent subparts each regulate a group of emission points, which were written so that new rules for other MACT source categories can reference these subparts for some requirements. Since these subparts reference subpart DD for some authorities, it is important that subpart DD separates delegable requirements from the non-delegable standards and contains delegation provisions that delegate the appropriate authorities.

Subpart DD does not separate delegable requirements from non-delegable authorities in some instances. Section 63.684, "Standards for off-site material treatment," contains monitoring requirements, and § 63.693, "Standards for closed-vent systems and control devices," contains monitoring and inspection requirements, which are delegable authorities. We have rephrased the language of § 63.684(e)(1) to remove the monitoring and reporting requirements from that section. Those requirements were added to § 63.695, "Inspection and monitoring requirements" in § 63.695(e), with an introductory paragraph to match the format of the section in § 63.695(a)(4). The continuous monitoring requirements and visual inspection requirements in § 63.693(b)(4)(i) and § 63.693(c)(2)(ii) were also removed and placed in § 63.695(c)(1)(ii)(C) and (D).

To clarify which authorities can be delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.680, 63.684–63.691, and 63.693, which contain applicability provisions and the standards for off-site material treatment, tanks, oil-water and organic-water separators, surface impoundments, containers, transfer

systems, process vents, equipment leaks, closed-vent systems, and control devices. In addition, this rule requires that affected sources meet specific requirements that are contained in other subparts. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of the subpart that is referenced.

#### 21. Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations

Subpart EE is the MACT standard for the magnetic tape manufacturing industry. To clarify which authorities are delegated, we have replaced the existing delegation paragraph with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in § 63.701 and § 63.703, which contain the applicability provisions and the emission standards for this rule.

#### 22. Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities

Subpart GG is the MACT standard for aerospace manufacturing and rework facilities. We have restructured the work practices in § 63.744 to give S/L/T agencies greater flexibility in approving alternatives that still meet the intent of the standard by adding a paragraph to explain that either the Administrator or delegated State, local, or tribal authorities may approve alternatives to the cleaning operations measures in § 63.744(a).

In addition, this subpart does not contain delegation provisions. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.759. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.741, 63.743, 63.744(a)(1)–(3), 63.744(b)–(e), 63.745–63.748, and 63.749(a), which contain the applicability provisions, cleaning, primer and top-coat application, repainting, chemical milling maskant application, and waste handling and storage standards, and the compliance dates for this rule.

#### 23. Subpart HH, National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities

Subpart HH is the MACT standard for oil and natural gas production facilities. This subpart does not separate delegable from non-delegable authorities in some instances. A standards section, § 63.771, "Control equipment requirements," contains inspection and monitoring requirements, which are considered delegable requirements. We have removed the language for inspection and monitoring requirements from § 63.771 and added it to § 63.773, "Inspection and monitoring requirements," in § 63.773(c)(2)(iv).

To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.760, 63.765–63.766, 63.769, and 63.771, which contain the applicability provisions and the emission standards for glycol dehydration unit process vents, storage vessels, equipment leaks, and control equipment requirements. We did not reserve § 63.764, "General Standards," which does not contain actual standards, but provides a guide to the applicable requirements in other sections of the subpart.

This subpart also contains a section, § 63.777, which describes procedures that should be followed to obtain approval of an alternative means of emission limitation. To retain the intent of the original language of § 63.777, the delegation provisions also reserve that section for procedures to follow in requesting an alternative means of emission limitation.

#### 24. Subpart II, National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)

Subpart II is the MACT standard for shipbuilding and ship repair. This subpart currently does not have a delegation section. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.789. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.780–63.781 and 63.783–63.784, which contain the applicability provisions, emission standards, and compliance dates for this rule.

## 25. Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations

Subpart JJ is the MACT standard for wood furniture manufacturing. This subpart does not separate delegable requirements from the standards in some instances. Section 63.803, "Work practice standards," contains requirements for an inspection and maintenance plan in § 63.803(c)(1)–(4), which should be delegable. Because these paragraphs are reasonably separable from the other standards in the section, we have indicated that the requirements of those paragraphs are not considered part of the standard and, thus, are delegable. However, we renumbered the paragraphs in that section so the introductory paragraph of (c) is now (c)(1), and the subsequent paragraphs were renumbered as (c)(2)–(5) to accommodate that change.

To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.802 and 63.803(a)–(b), (c)(1), and (d)–(l), which contain the standards for this rule. This section also shows that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the applicability provisions in § 63.800. To retain the intent of the original delegation provisions in § 63.808, the revised delegation section also reserves the monitoring and compliance assurance measures and test methods in §§ 63.804(f)(4)(iv)(D) and (E), 63.804(g)(4)(iii)(C), 63.804(g)(4)(vi), 63.804(g)(6)(vi), 63.805(a), 63.805(d)(2)(v), and 63.805(e)(1).

## 26. Subpart KK, National Emission Standards for the Printing and Publishing Industry

Subpart KK is the MACT standard for the printing and publishing industry. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.820–63.821 and 63.824–63.826. These sections contain applicability provisions, compliance dates, standards for publication rotogravure printing and product and packaging rotogravure, and wide-web flexographic printing. We are not reserving § 63.823, which only indicates which general provisions

requirements apply to subpart KK. As part of the implementation and enforcement language, we clarify that the authority to approve major alternatives to test methods is not delegated. In addition, to retain the intent of the original delegation paragraph language of § 63.831, the revised delegation provisions also clarify that the authority is not given to approve any alternatives to the test methods specified in § 63.827(b) and (c).

## 27. Subpart LL, National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

Subpart LL is the MACT standard for primary aluminum production plants. This subpart does not separate the delegable requirements from non-delegable authorities in some instances. Section 63.845, "Incorporation of new source performance standards for potroom groups," contains requirements for applicability determinations, reporting requirements, and criteria to use to determine emissions quantities, which are not considered standards for this regulation. Since these measures are in paragraphs reasonably separable from the standards in the section, we have indicated that paragraphs § 63.845(a) and (f)–(g) are not considered part of the standard and are, thus, delegable.

To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section now shows that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.840, 63.843–63.844, 63.845(b)–(e), (h)–(i), and 63.846 which contain the applicability provisions, emission standards for existing and new or reconstructed sources, standards for incorporation of new source performance standards for potroom groups, and emissions averaging provisions.

## 28. Subpart OO, National Emission Standards for Tanks—Level 1

Subpart OO is the MACT national emission standard for level 1 tanks. This regulation is one subpart in a group of subparts that make up the off-site waste and recovery operations regulation, where each subpart regulates a specific group of emission points. These unit-specific subparts were written so that new rules for other MACT source categories can reference these subparts for some requirements. Therefore, it is important for each of these subparts to contain delegation provisions specific to the requirements of that subpart. Since this subpart does not contain delegation

provisions, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.908. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.900 and 63.902, which contain the applicability provisions and emissions standards for tanks with fixed roofs.

## 29. Subpart PP, National Emission Standards for Containers

Subpart PP is the MACT national emission standard for containers. This regulation is one subpart in a group of subparts that make up the off-site waste and recovery operations regulation, where each subpart regulates a specific group of emission points. As explained above, it is important for each of these subparts to have delegation provisions specific to the requirements of that subpart. Since this subpart does not contain delegation provisions, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.929. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.920 and 63.922–63.924, which contain the applicability provisions and container level 1, 2, and 3 control standards.

In addition, this subpart requires that affected sources meet specific requirements that are contained in other subparts. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation paragraph of the subpart that is referenced.

## 30. Subpart QQ, National Emission Standards for Surface Impoundments

Subpart QQ is the MACT national emission standard for surface impoundments. This regulation is one subpart in a group of subparts that make up the off-site waste and recovery operations regulation, where each subpart regulates a specific group of emission points. As explained above, it is important for each of these subparts to have delegation provisions specific to the requirements of that subpart. Since this subpart does not contain delegation provisions, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.949. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.940, and 63.942–

63.943, which contain the applicability provisions and emission standards for surface impoundments vented to control devices and for those with floating membrane covers. In addition, this rule requires provisions of subpart DD to be followed. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation paragraph of subpart DD.

### 31. Subpart RR, National Emission Standards for Individual Drain Systems

Subpart RR is the MACT national emission standard for individual drain systems. This regulation is one subpart in a group of subparts that make up the off-site waste and recovery operations regulation, where each subpart regulates a specific group of emission points. As explained above, it is important for each of these subparts to have delegation provisions specific to the requirements of that subpart. Since this subpart does not have a delegation section, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.967. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.960 and 63.962, which contain the applicability provisions and emissions standards for this subpart. In addition, this subpart requires provisions of subpart DD to be followed. In the "Implementation and enforcement" section, we have clarified that delegation of those requirements will occur according to the delegation provisions of subpart DD.

### 32. Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators

Subpart VV is the MACT national emission standard for oil-water and organic-water separators. This regulation is one subpart in a group of subparts that make up the off-site waste and recovery operations regulation, where each subpart regulates a specific group of emission points. As explained above, it is important for each of these subparts to have delegation provisions specific to the requirements of that subpart. Since, this subpart does not have a delegation section, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.1050. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1040 and 63.1042–63.1044, which contain the applicability provisions, the

emissions standards for separators with fixed and floating roofs, and those vented to a control device. In addition, this subpart requires provisions of subpart DD to be followed. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of subpart DD.

### 33. Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants

Subpart CCC is the MACT standard for steel pickling—HCl process facilities and hydrochloric acid regeneration plants. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1155 and 63.1157–1159, which contain the applicability provisions and the emissions, operational, and equipment standards for existing, new, and reconstructed sources.

To retain the intent of the original delegation paragraph language, the revised delegation provisions reserve approval of alternative measurement methods for HCl and Cl<sub>2</sub> to those specified in § 63.1161(d)(1), reserve approval of alternative monitoring requirements to those specified in §§ 63.1162(a)(2)–(5) and 63.1162(b)(1)–(3), reserve the authority to grant a waiver of recordkeeping requirements specified in § 63.1165, and expressly delegate approval of an alternative schedule for conducting performance tests to the requirement specified in § 63.1162(a)(1).

### 34. Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production

Subpart DDD is the MACT standard for mineral wool production. This subpart does not currently contain delegation provisions. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1177–63.1179, which contain the applicability provisions and the emission standards for cupolas and curing ovens.

### 35. Subpart EEE, National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors

Subpart EEE is the MACT standard for hazardous waste combustors. This subpart does not currently have a delegation section. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.1214. The delegation provisions show that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1200 and 63.1203–63.1205, which contain the applicability provisions and emission standards for this subpart.

### 36. Subpart GGG, National Emission Standards for Pharmaceuticals Production

To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1250 and 63.1252–63.1256, which contain the applicability provisions and emission standards for this subpart. In addition, this subpart requires that affected sources meet specific requirements that are contained in other subparts. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of the referenced subparts.

### 37. Subpart HHH, National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities

Subpart HHH is the MACT standard for natural gas transmission and storage. This subpart does not separate delegable from non-delegable authorities in some instances. The standards section, § 63.1281, "Control equipment requirements," contains inspection and monitoring requirements, which are considered delegable requirements. To separate these delegable requirements from non-delegable authorities in that section, we have removed the language for inspection and monitoring requirements from § 63.1281 and added it to § 63.1283, "Inspection and monitoring requirements," in paragraph (c)(2)(iii).

To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed,

indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1270, 63.1275, and 63.1281, which contain applicability provisions, glycol dehydration unit process vent standards, and control equipment requirements.

In addition, subpart HHH contains a section, § 63.1287, which describes procedures that should be followed for approval of an alternative means of emission limitation. To retain the intent of the original language of § 63.1287, the delegation provisions also reserve that section.

#### 38. Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production

Subpart III is the MACT standard for flexible polyurethane foam production. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1920 and 63.1293–63.1301, and 63.1305(d) which contain the applicability provisions, emission standards for this rule, and provisions for approval of an alternative means of emission limitation.

#### 39. Subpart JJJ, National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

Subpart JJJ is the MACT standard for Group IV polymers and resins. This subpart currently does not contain delegation provisions. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provisions in a new section, § 63.1336. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1310–63.1311, 63.1313–63.1316, 63.1321–63.1323, and 63.1328–63.1332, which contain the applicability provisions, compliance dates, the emissions standards, and the emissions averaging provisions for this subpart.

This subpart also requires that provisions of another subpart be followed, with slight changes. In the implementation and enforcement delegation provisions language, we have clarified that those requirements should be changed as directed, and then delegation of those requirements will occur according to the delegation

provisions of the subpart that is referenced. For example, subpart JJJ references subpart H, §§ 63.182(a)(2) and 63.182(c) but slightly changes these requirements. We clarify in this rulemaking that although subpart JJJ changes these specific subpart H requirements for the purposes of subpart JJJ, the delegation of these referenced requirements follow the original delegation of subpart H.

#### 40. Subpart LLL, National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

Subpart LLL is the MACT standard for portland cement production. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1340, and 63.1343–63.1348, which contain the applicability provisions, emission standards and operating limits for kiln and in-line kiln/raw mills, and the standards for clinker coolers, new and reconstructed raw material dryers, raw and finish mills, and other sources.

#### 41. Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

Subpart MMM is the MACT standard for pesticide active ingredient production. This subpart does not separate delegable requirements from the non-delegable standards in some instances. Section 63.1362, "Standards," contains delegable monitoring requirements for closed vent systems in § 63.1362(j). We have restructured this section to remove the specific monitoring requirements and placed them in § 63.1366, "Monitoring and inspection requirements," in paragraphs § 63.1366(b)(1)(xiii)(B) and (C).

To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1360 and 63.1362–63.1363, which contain the applicability provisions, emission standards, and standards for equipment leaks. This rule also requires that provisions of another subpart be followed, with slight changes. In the "Implementation and enforcement" section, we have clarified that those

requirements should be changed as directed, and then delegation of those requirements will occur according to the delegation provisions of the subpart that is referenced.

#### 42. Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing

Subpart NNN is the MACT standard for wool fiberglass manufacturing. This subpart does not have a delegation paragraph. To clarify which authorities are delegated, we have added the "Implementation and enforcement" section for the delegation provision in a new section, § 63.1388. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1380 and 63.1382, which contain the applicability provisions and the emissions standards for this subpart.

#### 43. Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production

Subpart OOO is the MACT standard for Group III polymers and resins: amino and phenolic resins. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1400 and 63.1404–63.1410, which contain the applicability provisions and the emission standards for process vents, storage vessels, heat exchangers, and equipment leaks. In addition, this rule requires that affected sources meet specific requirements that are contained in other subparts. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of the referenced subparts. Where subpart OOO requires that affected sources meet specific requirements that are contained in other subparts, but makes certain changes to those provisions, we have clarified that those provisions should be changed accordingly and then delegated according to the delegation provisions of the referenced subpart.

#### 44. Subpart PPP, National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production

Subpart PPP is the MACT standard for polyether polyols production. To clarify which authorities are delegated, we have replaced the existing delegation

provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1420, 63.1422, 63.1424–63.1428 and 63.1432–63.1436, which contain the applicability provisions, compliance dates, and emission standards for this subpart. In addition, this rule requires that affected sources meet specific requirements that are contained in other subparts. In the implementation and enforcement language, we have clarified that delegation of those requirements will occur according to the delegation provisions of the referenced subparts. Where subpart PPP requires that affected sources meet specific requirements that are contained in other subparts, but makes certain changes to those provisions, we have clarified that those provisions should be modified accordingly and then delegated according to the delegation provisions of the referenced subpart.

#### 45. Subpart RRR, National Emission Standards for Secondary Aluminum Production

Subpart RRR is the MACT standard for secondary aluminum production. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1500 and 63.1505–63.1506, which contain the applicability provisions and the emission standards and operating requirements for this subpart.

#### 46. Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting

Subpart TTT is the MACT standard for primary lead smelting. This subpart does not separate the delegable from the non-delegable authorities in some instances. Section 63.1543, "Standards for process and process fugitive sources," contains compliance testing requirements in paragraphs (d)–(e), which are considered delegable requirements. Since these paragraphs are reasonably separable from the other standards in the section, we have indicated that the requirements in paragraphs (d)–(e) are not considered part of the standard and, thus, are delegable.

To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement"

section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1541, 63.1543(a)–(c), (f)–(g), and 63.1544, which contain the applicability provisions and emission standards for process and process fugitive sources, and fugitive dust sources.

#### 47. Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works

Subpart VVV is the MACT standard for publicly owned treatment works. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1580, 63.1583, and 63.1586, which contain the applicability provisions and the emissions and control standards for industrial and non-industrial publicly owned treatment works.

#### 48. Subpart XXX, National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese

Subpart XXX is the MACT standard for ferroalloys production. To clarify which authorities are delegated, we have replaced the existing delegation provisions' language with the "Implementation and enforcement" section. This section, as proposed, indicates that delegation of authority to approve alternatives cannot be given to S/L/T agencies for the requirements in §§ 63.1650 and 63.1652–63.1654, which contain the applicability provisions, the opacity and non-opacity emission standards, and the operational and work practice standards for this rule.

### III. Administrative Requirements

#### A. Docket

The docket for this regulatory action is docket number A–2000–57. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review (except for interagency review materials) (Section 307(d)(7)(A) of the Act). The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, the location of which is given in the **ADDRESSES** section of this rule.

#### B. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) on the basis of the requirements of the Executive Order, in addition to its normal review requirements. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule 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 entitlements, 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.

These proposed rule changes will not have an annual effect on the economy of \$100 million or more, and therefore are not considered economically significant. In addition, we have determined that this rule is not a "significant regulatory action" because it does not contain novel policy issues.

#### C. Executive Order 13132—Federalism

Executive Order 13132, entitled "Federalism" (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."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and

Local governments or EPA consults with State and Local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and Local officials early in the process of developing the proposed regulation.

The proposed changes in today's rulemaking do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because this proposed rule only clarifies which portions of the existing NESHAP contain authorities that can be delegated to State, Local, and Tribal (S/L/T) governments and does not create any new requirements for S/L/Ts. In other words, this rulemaking only makes insignificant clarifications to existing NESHAP and is not expected to have any additional impact on the relationship between S/L/Ts and the Federal government. Thus, the requirements of section 6 of the Executive Order do not apply to today's rulemaking. Nevertheless, EPA will consider comments from S/L/T agencies to enable them to provide meaningful and timely input in the development of the final changes.

#### *D. Executive Order 13175—Consultation with Tribal Governments*

On November 6, 2000, the President issued Executive Order 13175 (65 CFR 67249) entitled, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. However, the rules that we propose to amend were developed during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. The EPA will analyze and fully comply with the requirements of Executive Order 13175 before promulgating the final rule.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal

governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

The proposed changes in today's rulemaking do not significantly or uniquely affect the communities of Indian tribal governments. Because they implement a voluntary program, they impose no direct compliance costs on these communities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply.

#### *E. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The proposed changes are being made to rules that already have approved information collection requirements and valid OMB control numbers as required by the Paperwork Reduction Act. The proposed changes in today's rulemaking are clarifications to the relationship between EPA and the S/L/T agencies that have chosen to implement and enforce the rules. Therefore, there is no change in the burden that the rules impose on sources or S/L/Ts.

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 purpose of collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

*F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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.

We believe that there will be little or no impact on small entities as a result of these rule revisions. State, Local, and Tribal governments are the only entities affected by this action and we expect that most or all of the governments which would have the authority to accept delegation under section 112(l) of the Act are those whose populations exceed 50,000 persons and are thus, not considered "small." In the case of Tribal jurisdictions where population will not exceed 50,000 persons, we still believe that there will be little or no impact as a result of these revisions because none currently have air toxics programs. Furthermore, these rule revisions add flexibility and clarity to the existing NESHAP that these governments may choose to implement and enforce and, therefore, eases rather than imposes burdens. Accordingly, because few or none of the affected entities are expected to be small entities and because the regulatory impacts will be insignificant, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

#### *G. Unfunded Mandates Reform Act of 1995*

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 S/L/T governments and the private sector. Under section 202 of the UMRA, we 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 S/L/T 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 us 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 us to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if EPA publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, we must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially 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.

The proposed rule changes contain no Federal mandates (under the regulatory provisions of Title II of the UMRA) for S/L/T governments or the private sector. Because the rule is estimated to result in the expenditure by S/L/T governments of significantly less than \$100 million in any 1 year, we have not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, we are not required to develop a plan with regard to small governments. Moreover, this action clarifies the relationship between EPA and the S/L/T agencies who have voluntarily requested delegation of the part 63 NESHAP, so it does not impose any mandates on those entities. Therefore, the requirements of the Unfunded Mandates Reform Act do not apply to this action.

#### *H. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks*

Executive Order 13045 applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has 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 reasonable alternatives considered by the Agency.

These proposed changes are not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because they are not an economically significant regulatory action as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

#### *I. National Technology Transfer and Advancement Act of 1995*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the Office of Management and Budget (OMB), with explanations when an agency does not use available and applicable voluntary consensus standards.

The proposed changes do not affect selection of technical standards that are contained in the existing subparts. Therefore, we are not considering the use of any voluntary consensus standards.

#### *J. Executive Order 13211—Energy Effects*

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

#### **List of Subjects in 40 CFR Part 63**

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

Dated: December 19, 2001.

**Christine Todd Whitman,**  
*Administrator.*

For the reasons set out in the preamble, title 40, chapter 1 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.*

#### **Subpart F—[Amended]**

2. Section 63.106 is revised to read as follows:

#### **§ 63.106 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to requirements in §§ 63.100, 63.102, and 63.104. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart G—[Amended]**

3. Section 63.153 is added to Subpart G to read as follows:



**§ 63.153 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.110, 63.112 and 63.113, 63.119, 63.126, 63.132 through 63.140, 63.148–63.149, and 63.150(i)(1) through (4). Follow the requirements in § 63.121 to request permission to use an alternative means of emission limitation for storage vessels. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart H—[Amended]**

4. Section 63.183 is added to Subpart H to read as follows:

**§ 63.183 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency.

If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.160, 63.162–63.176, 63.178–63.179. Follow the applicable procedures of § 63.177 to request an alternative means of emission limitation for batch processes and enclosed-vented process units. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart I—[Amended]**

5. Section 63.193 is revised to read as follows:

**§ 63.193 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S.

EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart e of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.190 and 63.192(a) and (b), (e), and (h) through (j). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart L—[Amended]**

6. Section 63.309 is amended by revising (a)(5)(i) to read as follows:

**§ 63.309 Performance tests and procedures.**

(a) \* \* \*

(5)(i) The EPA shall be the enforcement agency during any period of time that a delegation of enforcement authority is not in effect or a withdrawal of enforcement authority under § 63.313 is in effect, and the Administrator is responsible for performing the inspections required by this section, pursuant to § 63.313(c).

\* \* \* \* \*

7. Section 63.313 is revised to read as follows:

**§ 63.313 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this

subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart e of this part, the authorities contained in paragraph (d) of this section are retained by the Administrator and cannot be transferred to the State, local, or tribal agency.

(c) *Withdrawal of authority.* (1) Whenever the Administrator learns that a delegated agency has not fully carried out the inspections and performance tests required under § 63.309 for each applicable emission point of each battery each day, the Administrator shall immediately notify the agency. Unless the delegated agency demonstrates to the Administrator's satisfaction within 15 days of notification that the agency is consistently carrying out the inspections and performance tests required under § 63.309 in the manner specified in the preceding sentence, the Administrator shall notify the coke oven battery owner or operator that inspections and performance tests shall be carried out according to § 63.309(a)(5). When the Administrator determines that the delegated agency is prepared to consistently perform all the required inspections and performance tests each day, the Administrator shall give the coke oven battery owner or operator at least 15 days notice that implementation will revert to the previously delegated agency.

(2) In addition to the provisions in paragraph (c)(1) of this section, the Administrator may also withdraw delegation of authority pursuant to the provisions of § 63.96 of subpart E of this part.

(d) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (d)(1) through (5) of this section.

(1) Approval of alternatives to the requirements in §§ 63.300 and 63.302 through 63.308.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of any changes to section 2 of Method 303 in appendix A of this part.

(4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart M—[Amended]**

8. Section 63.326 is added to Subpart M to read as follows:

**§ 63.326 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart e of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.320 and 63.322(a) through (j). Follow the requirements in § 63.325 to demonstrate that alternative equipment or procedures are equivalent to the requirements of § 63.322.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart N—[Amended]**

9. Section 63.342 is amended:

- a. By revising paragraph (f) introductory text.
- b. Revising paragraph (f)(3)(i) introductory text.
- c. Revising paragraphs (f)(3)(i)(B) and (C).
- d. Revising the headings for Table 1 and its columns.

The revisions read as follows:

**§ 63.342 Standards.**

(f) *Operation and maintenance practices.* All owners or operators subject to the standards in paragraphs (c) and (d) of this section are subject to

these operation and maintenance practices.

(3) *Operation and maintenance plan.*

(i) The owner or operator of an affected source subject to paragraph (f) of this section shall prepare an operation and maintenance plan to be implemented no later than the compliance date, except for hard chromium electroplaters and the chromium anodizing operations in California which have until January 25, 1998. The plan shall be incorporated by reference into the source's title V permit, if and when a title V permit is required. The plan shall include the following elements:

(B) For sources using an add-on control device or monitoring equipment to comply with this subpart, the plan shall incorporate the operation and maintenance practices for that device or monitoring equipment, as identified in Table 1 of this section, if the specific equipment used is identified in Table 1 of this section;

(C) If the specific equipment used is not identified in Table 1 of this section, the plan shall incorporate proposed operation and maintenance practices. These proposed operation and maintenance practices shall be submitted for approval as part of the submittal required under § 63.343(d);

TABLE 1 TO § 63.342.—SUMMARY OF OPERATION AND MAINTENANCE PRACTICES

Control technique	Operation and maintenance practices	Frequency
*	*	*

10. Section 63.343 is amended by revising paragraph (d) to read as follows:

**§ 63.343 Compliance provisions.**

(d) An owner or operator who uses an air pollution control device not listed in this section shall submit a description of the device, test results collected in accordance with § 63.344(c) verifying the performance of the device for reducing chromium emissions to the atmosphere to the level required by this subpart, a copy of the operation and maintenance plan referenced in § 63.342(f) including operation and maintenance practices, and appropriate operating parameters that will be monitored to establish continuous

compliance with the standards. The monitoring plan submitted identifying the continuous compliance monitoring is subject to the Administrator's approval.

11. Section 63.348 is added to Subpart N to read as follows:

**§ 63.348 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.340 and 63.342(a) through (e) and (g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart O—[Amended]**

12. Section 63.368 is added to Subpart O to read as follows:

**§ 63.368 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this

subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.360 and 63.362.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart Q—[Amended]**

13. Section 63.407 is added to Subpart Q to read as follows:

**§ 63.407 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.400 and 63.402–63.403.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart R—[Amended]**

14. Section 63.429 is revised to read as follows:

**§ 63.429 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or Tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or Tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.420 and 63.422 through 63.424. Any owner or operator requesting to use an alternative means of emission limitation for storage vessels covered by § 63.423 must follow the procedures in § 63.426.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart, and any alternatives to § 63.427(a)(1) through (4) per § 63.427(a)(5).

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart S—[Amended]**

15. Section 63.450 is amended by revising paragraph (d)(1) to read as follows:

**§ 63.450 Standards for enclosures and closed-vent systems.**

\* \* \* \* \*

(d) \* \* \*

(1) On each bypass line, the owner or operator shall install, calibrate, maintain, and operate according to the manufacturer's specifications a flow indicator that is capable of taking periodic readings as frequently as specified in § 63.454(e). The flow indicator shall be installed in the bypass line in such a way as to indicate flow in the bypass line; or

\* \* \* \* \*

16. Section 63.454 is amended by revising paragraph (e) to read as follows:

**§ 63.454 Recordkeeping requirements.**

\* \* \* \* \*

(e) The owner or operator shall set the flow indicator on each bypass line specified in § 63.450(d)(1) to provide a record of the presence of gas stream flow in the bypass line at least once every 15 minutes.

\* \* \* \* \*

17. Section 63.458 is revised to read as follows:

**§ 63.458 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.440, 63.443 through 63.447 and 63.450. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) Approval of alternatives to using §§ 63.457(b)(5)(iii), 63.457(c)(3)(ii) and (iii), and 63.257(c)(5)(ii), and any major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of alternatives using § 64.453(m) and any major alternatives

to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart T—[Amended]**

18. Section 63.460 is amended by removing and reserving paragraph (f).

19. Section 63.462 is amended by adding paragraph (e) to read as follows:

**§ 63.462 Batch cold cleaning machine standards.**

\* \* \* \* \*

(e) Each owner or operator subject to the requirements of paragraph (c)(1) through (8) of this section may request to use measures other than those described in these paragraphs. The owner or operator must demonstrate to the Administrator (or delegated State, local, or Tribal authority) that the alternative measures will result in equivalent or better emissions control compared to the measures described in paragraphs (c)(1) through (8) of this section. For example, storing solvent and solvent-laden materials in an enclosed area that is ventilated to a solvent recovery or destruction device may be considered an acceptable alternative.

20. Section 63.463 is amended by revising paragraph (e)(2)(ix)(B) to read as follows:

**§ 63.463 Batch vapor and in-line cleaning machine standards.**

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(ix) \* \* \*

(B) Conduct the weekly monitoring required by § 63.466(a)(3). Record the results required by § 63.467(a)(6).

\* \* \* \* \*

21. Section 63.467 is amended by revising paragraph (a)(6) to read as follows:

**§ 63.467 Recordkeeping requirements.**

(a) \* \* \*

(6) If a squeegee system is used to comply with these standards, records of the test required by § 63.466(f) to determine the maximum product throughput for the squeegees and records of both the weekly monitoring required by § 63.466(a)(3) for visual inspection and the length of continuous web product cleaned during the previous week.

\* \* \* \* \*

22. Section 63.470 is added to Subpart T to read as follows:

**§ 63.470 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.460, 63.462(a) through (d), and 63.463 and 63.464. Use the procedures in § 63.469 to request the use of alternative equipment or procedures, and use the procedures in § 63.463(d)(9) to request alternative maintenance practices.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart U—[Amended]**

23. Section 63.507 is added to Subpart U to read as follows:

**§ 63.507 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to

a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.480 and 63.481, 63.483(a) through (c), 63.484, 63.485(a) through (k), (m) through (s), (u), 63.486 and 63.487, 63.488(a), (b)(1) through (4), (b)(5)(iv) and (v), (b)(6) and (7), (c) through (i), 63.493 and 63.494, 63.500(a)(1) through (3), (b), 63.501, 63.502(a) through (f), (i), (k) through (m), and 63.503. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### Subpart W—[Amended]

24. Section 63.529 is added to Subpart W to read as follows:

##### § 63.529 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this

section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.520, 63.523, and 63.524. Where these standards reference another rule, the cited provisions in that rule will be delegated according to the delegation provisions of that rule.

(2) Approval of major alternatives to test methods for under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### Subpart X—[Amended]

25. Section 63.545 is amended by revising paragraph (c) introductory text and adding paragraph (f) to read as follows:

##### § 63.545 Standards for fugitive dust sources.

\* \* \* \* \*

(c) The controls specified in the standard operating procedures manual shall at a minimum include the requirements of paragraphs (c)(1) through (c)(5) of this section, unless the owner or operator satisfies the requirements in paragraph (f) of this section.

\* \* \* \* \*

(f) Demonstrate to the Administrator (or delegated State, local, or Tribal authority) that an alternative measure(s) is equivalent or better than a practice(s) described in paragraphs (c)(1) through (c)(5) of this section.

26. Section 63.551 is added to Subpart X to read as follows:

##### § 63.551 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to

a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.541 and 63.543 through 63.545(a) through (e).

(2) Approval of major alternatives to test methods for under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### Subpart Y—[Amended]

27. Section 63.562 is amended by removing paragraph (d)(3).

28. Section 63.567 is amended by adding paragraph (l) to read as follows:

##### § 63.567 Recordkeeping and reporting requirements.

\* \* \* \* \*

(l) The owner or operator of the VMT source required by § 63.562(d)(2)(iv) to develop a program, shall submit annual reports on or before January 31 of each year to the Administrator certifying the annual average daily loading rate for the previous calendar year. Beginning on January 31, 1996, for the reported year 1995, the annual report shall specify the annual average daily loading rate over all loading berths. Beginning on January 31, 1999, for the reported year 1998, the annual report shall specify the annual average daily loading rate over all loading berths, over each loading berth equipped with a vapor collection system and control device, and over each loading berth not equipped with a vapor collection system and control device. The annual average daily loading rate under this section is calculated as the total amount of crude oil loaded during the calendar year divided by 365 days or 366 days, as appropriate.

29. Section 63.568 is added to Subpart Y to read as follows:

##### § 63.568 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or

tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.560 and 63.562(a) through (d).

(2) Approval of major alternatives to test methods for under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart AA—[Amended]**

30. Section 63.611 is added to Subpart AA to read as follows:

##### **§ 63.611 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.600, 63.602 through 63.604, and 63.609 and 63.610.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart BB—[Amended]**

31. Section 63.632 is added to Subpart BB to read as follows:

##### **§ 63.632 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.620, 63.622 through 63.624, and 63.629 through 63.631.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart CC—[Amended]**

32. Section 63.655 is added to Subpart CC to read as follows:

##### **§ 63.655 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.640, 63.642(g) through (l), 63.643, 63.646 through 63.648, and 63.649 through 63.652. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart DD—[Amended]**

33. Section 63.684 is amended by revising paragraph (e)(1) to read as follows:

##### **§ 63.684 Standards: Off-Site material treatment.**

\* \* \* \* \*

(e) \* \* \*

(1) A continuous monitoring system shall be installed and operated for each treatment that measures operating parameters appropriate for the treatment

process technology. This system shall include a continuous recorder that records the measured values of the selected operating parameters. The monitoring equipment shall be installed, calibrated, and maintained in accordance with the equipment manufacturer's specifications. The continuous recorder shall be a data recording device that is capable of recording either an instantaneous data value at least once every 15 minutes or an average value for intervals of 15 minutes or less.

\* \* \* \* \*

34. Section 63.693 is amended by revising paragraphs (b)(4)(i) and (c)(2)(ii) to read as follows:

**§ 63.693 Standards: closed-vent systems and control devices.**

\* \* \* \* \*

(b) \* \* \*  
(4) \* \* \*

(i) A continuous monitoring system shall be installed and operated for each control device that measures operating parameters appropriate for the control device technology as specified in paragraphs (d) through (h) of this section. This system shall include a continuous recorder that records the measured values of the selected operating parameters. The monitoring equipment shall be installed, calibrated, and maintained in accordance with the equipment manufacturer's specifications. The continuous recorder shall be a data recording device that is capable of recording either an instantaneous data value at least once every 15 minutes or an average value for intervals of 15 minutes or less.

\* \* \* \* \*

(c) \* \* \*  
(2) \* \* \*

(ii) If a seal or locking device is used to comply with paragraph (c)(2) of this section, the device shall be placed on the mechanism by which the bypass device position is controlled (e.g., valve handle, damper lever) when the bypass device is in the closed position such that the bypass device cannot be opened without breaking the seal or removing the lock. Examples of such devices include, but are not limited to, a car-seal or a lock-and-key configuration valve.

\* \* \* \* \*

35. Section 63.695 is amended by revising paragraphs (a)(4), adding paragraphs (c)(1)(ii)(C) and (D), and revising paragraph (e) introductory text to read as follows:

**§ 63.695 Inspection and monitoring requirements.**

\* \* \* \* \*

(a) \* \* \*

(4) To monitor and record off-site material treatment processes for compliance with the standards specified in 63.684(e), the monitoring procedures are specified in paragraph (e) of this section.

\* \* \* \* \*

(c) \* \* \*  
(1) \* \* \*  
(ii) \* \* \*

(C) The continuous monitoring system required by § 63.693(b)(4)(i) shall monitor and record either an instantaneous data value at least once every 15 minutes or an average value for intervals of 15 minutes or less.

(D) The owner or operator shall visually inspect the seal or closure mechanism required by § 63.693(c)(2)(ii) at least once every month to verify that the bypass mechanism is maintained in the closed position.

\* \* \* \* \*

(e) The continuous monitoring system required by § 63.684(e)(1) shall monitor and record either an instantaneous data value at least once every 15 minutes or an average value for intervals of 15 minutes or less.

\* \* \* \* \*

36. Section 63.698 is revised to read as follows:

**§ 63.698 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.680, 63.684 through 63.691, and 63.693. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and

(f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart EE—[Amended]**

37. Section 63.708 is revised to read as follows:

**§ 63.708 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.701 and 63.703.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart GG—[Amended]**

38. Section 63.744 is amended:

a. By revising the first sentence of paragraph (a)(1).

b. By revising paragraph (a)(2).

c. Adding paragraph (a)(4).

The revisions and addition read as follows:

**§ 63.744 Standards: Cleaning operations.**

(a) \* \* \*

(1) Unless the owner or operator satisfies the requirements in paragraph

(a)(4) of this section, place used solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in bags or other closed containers.

\* \* \*

(2) Unless the owner or operator satisfies the requirements in paragraph (a)(4) of this section, store fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations in closed containers.

\* \* \* \* \*

(4) Demonstrate to the Administrator (or delegated State, local, or tribal authority) that equivalent or better alternative measures are in place compared to the use of closed containers for the solvent-laden materials described in paragraph (a)(1) of this section, or the storage of solvents described in paragraph (a)(2) of this section.

\* \* \* \* \*

39. Section 63.759 is added to Subpart GG to read as follows:

**§ 63.759 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.741, 63.743, 63.744(a)(3), (b) through (e), 63.745 through 63.748, and 63.649(a).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under

§ 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart HH—[Amended]**

40. Section 63.771 is amended by revising paragraphs (c)(3)(i)(A) and (B).

**§ 63.771 Control equipment requirements.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) \* \* \*

(A) At the inlet to the bypass device that could divert the stream away from the control device to the atmosphere, properly install, calibrate, maintain, and operate a flow indicator that is capable of taking periodic readings and sounding an alarm when the bypass device is open such that the stream is being, or could be, diverted away from the control device to the atmosphere; or

(B) Secure the bypass device valve installed at the inlet to the bypass device in the non-diverting position using a car-seal or a lock-and-key type configuration.

\* \* \* \* \*

41. Section 63.773 is amended by revising paragraph (c)(2) introductory text and adding paragraph (c)(2)(iv) to read as follows:

**§ 63.773 Inspection and monitoring requirements.**

\* \* \* \* \*

(c) \* \* \*

(2) Except as provided in paragraphs (c)(5) and (6) of this section, each closed-vent system shall be inspected according to the procedures and schedule specified in paragraphs (c)(2)(i) and (ii) of this section, each cover shall be inspected according to the procedures and schedule specified in paragraph (c)(2)(iii) of this section, and each bypass device shall be inspected according to the procedures of (c)(2)(iv) of this section.

\* \* \* \* \*

(iv) For each bypass device, except as provided for in § 63.771(c)(3)(ii), the owner or operator shall either:

(A) At the inlet to the bypass device that could divert the steam away from the control device to the atmosphere, set the flow indicator to take a reading at least once every 15 minutes; or

(B) If the bypass device valve installed at the inlet to the bypass device is secured in the non-diverting position using a car-seal or a lock-and-key type configuration, visually inspect the seal or closure mechanism at least once every month to verify that the valve is maintained in the non-diverting position and the vent stream is not diverted through the bypass device.

\* \* \* \* \*

42. Section 63.776 is revised to read as follows:

**§ 63.776 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.760, 63.765, 63.766, 63.769, 63.771, and 63.777.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart II—[Amended]**

43. Section 63.789 is added to Subpart II to read as follows:

**§ 63.789 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this



section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.780 and 63.781, and 63.783 and 63.784.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### Subpart JJ—[Amended]

44. Section 63.803 is amended by revising paragraph (c) introductory text, paragraphs (c)(1) through (3), and paragraphs (c)(4) introductory text to read as follows:

##### § 63.803 Work practice standards.

\* \* \* \* \*

(c) Each owner or operator of an affected source shall prepare and maintain with the work practice implementation plan a written leak inspection and maintenance plan that specifies:

(1) A minimum visual inspection frequency of once per month for all equipment used to transfer or apply coating, adhesives, or organic solvents;

(2) An inspection schedule;

(3) Methods for documenting the data and results of each inspection and any repairs that were made;

(4) The time frame between identifying the leak and making the repair, which adheres, at a minimum, to the following schedule:

\* \* \* \* \*

45. Section 63.808 is revised to read as follows:

##### § 63.808 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (5) of this section.

(1) Approval of alternatives to the requirements in §§ 63.800, 63.802, and 63.803 (a) and (b), (c)(1), and (d) through (l).

(2) Approval of alternatives to the monitoring and compliance requirements in §§ 63.804(f)(4)(iv)(D) and (E), 63.804(g)(4)(iii)(C), 63.804(g)(4)(vi), and 63.804(g)(6)(vi).

(3) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart, as well as approval of any alternatives to the specific test methods under §§ 63.805(a), 63.805(d)(2)(v), and 63.805(e)(1).

(4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### Subpart KK—[Amended]

46. Section 63.831 is revised to read as follows:

##### § 63.831 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.820 and 63.821 and 63.824 through 63.826.

(2) Approval of alternatives to the test method for organic HAP content determination in § 63.827(b) and alternatives to the test method for volatile matter in § 63.827(c), and major alternatives to other test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### Subpart LL—[Amended]

47. Section 63.853 is revised to read as follows:

##### § 63.853 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this regulation. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.840, 63.843 and 63.844, 63.845(b) through (e), (h) and (i), and 63.846.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### Subpart OO—[Amended]

48. Section 63.908 is added to Subpart OO to read as follows:

**§ 63.908 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.900 and 63.902.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart PP—[Amended]**

49. Section 63.929 is added to Subpart PP to read as follows:

**§ 63.929 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.920 and 63.922 through 63.924. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart QQ—[Amended]**

50. Section 63.949 is added to Subpart QQ to read as follows:

**§ 63.949 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.940, 63.942, and 63.943. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions of subpart DD.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under

§ 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart RR—[Amended]**

51. Section 63.967 is added to Subpart RR to read as follows:

**§ 63.967 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.960 and 63.962. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions subpart DD of this part.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart VV—[Amended]**

52. Section 63.1050 is added to Subpart VV to read as follows:

**§ 63.1050 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S.

EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1040 and 63.1042 through 63.1044. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions of subpart DD of this part.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart CCC—[Amended]**

53. Section 63.1166 is revised to read as follows:

##### **§ 63.1166 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (8) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1155 and 63.1157 through 63.1159.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of any alternative measurement methods for HCl and CL2 to those specified in § 63.1161(d)(1).

(4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(5) Approval of any alternative monitoring requirements to those specified in §§ 63.1162(a)(2) through (5) and 63.1162(b)(1) through (3).

(6) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

(7) Waiver of recordkeeping requirements specified in § 63.1165.

(8) Approval of an alternative schedule for conducting performance tests to the requirement specified in § 63.1162(a)(1).

#### **Subpart DDD—[Amended]**

54. Section 63.1195 is revised to read as follows:

##### **§ 63.1195 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1177 through 63.1179.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart EEE—[Amended]**

55. Section 63.1214 is added to Subpart EEE to read as follows:

##### **§ 63.1214 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to requirements in §§ 63.1200 and 63.1203 through 63.1205.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart GGG—[Amended]**

56. Section 63.1261 is revised to read as follows:

##### **§ 63.1261 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in

addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1250 and 63.1252 through 63.1256. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart HHH—[Amended]**

57. Section 63.1281 is amended by revising paragraphs (c)(3)(i)(A) and (B) to read:

**§ 63.1281 Control equipment requirements.**

\* \* \* \* \*

- (c) \* \* \*
- (3) \* \* \*
- (i) \* \* \*

(A) At the inlet to the bypass device that could divert the stream away from the control device to the atmosphere, properly install, calibrate, maintain, and operate a flow indicator that is capable of taking periodic readings and sounding an alarm when the bypass device is open such that the stream is being, or could be, diverted away from the control device to the atmosphere; or

(B) Secure the bypass device valve installed at the inlet to the bypass device in the non-diverting position using a car-seal or a lock-and-key type configuration.

\* \* \* \* \*

58. Section 13.1283 is amended by revising paragraph (c)(2) introductory

text and adding paragraph (c)(2)(iii) to read as follows:

**§ 63.1283 Inspection and monitoring requirements.**

\* \* \* \* \*

(c) \* \* \*

(2) Except as provided in paragraphs (c)(5) and (6) of this section, each closed-vent system shall be inspected according to the procedures and schedule specified in paragraphs (c)(2)(i) and (ii) of this section and each bypass device shall be inspected according to the procedures of (c)(2)(iii) of this section.

\* \* \* \* \*

(iii) For each bypass device, except as provided for in § 63.1281(c)(3)(ii), the owner or operator shall either:

(A) At the inlet to the bypass device that could divert the stream away from the control device to the atmosphere, set the flow indicator to take a reading at least once every 15 minutes; or

(B) If the bypass device valve installed at the inlet to the bypass device is secured in the non-diverting position using a car-seal or a lock-and-key type configuration, visually inspect the seal or closure mechanism at least once every month to verify that the valve is maintained in the non-diverting position and the vent stream is not diverted through the bypass device.

\* \* \* \* \*

59. Section 63.1286 is revised to read as follows:

**§ 63.1286 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1270, 63.1275, 63.1281, and 63.1287.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart III—[Amended]**

60. Section 63.1309 is revised to read as follows:

**§ 63.1309 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (5) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1290, 63.1293 through 63.1301, and 63.1305.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of alternatives to the specific monitoring requirements of § 63.1303(b)(5).

(5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart JJJ—[Amended]**

61. Section 63.1336 is added to Subpart JJJ to read as follows:

**§ 63.1336 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1310 and 63.1311, 63.1313 through 63.1315(a)(1) through (9), (a)(11) through (18), (b) through (e), 63.1316, 63.1321 and 63.1322, 63.1323(a), (b)(1) through (4), (b)(5)(iv) and (v), (b)(6) and (7), (c) through (j), and 63.1328 through 63.1331. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart LLL—[Amended]**

62. Section 63.1358 is revised to read as follows:

**§ 63.1358 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency.

If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1340 and 63.1343 through 63.1348.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

**Subpart MMM—[Amended]**

63. Section 63.1362 is amended by revising paragraphs (j)(1) and (j)(2) to read as follows:

**§ 63.1362 Standards.**

\* \* \* \* \*

(j) \* \* \*

(1) Install, calibrate, maintain, and operate a flow indicator that is capable of determining whether vent stream flow is present and taking frequent, periodic readings. Records shall be maintained as specified in § 63.1367(f)(1). The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream away from the control device to the atmosphere; or

(2) Secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration. Records shall be maintained as specified in § 63.1367(f)(2).

\* \* \* \* \*

64. Section 63.1366 is amended by revising paragraph (b)(1)(xiii) to read as follows:

**§ 63.1366 Monitoring and inspection requirements.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(xiii) *Closed-vent system visual inspections.* The owner or operator shall comply with the requirements in either paragraph (b)(1)(xiii)(A) or (B) of this section:

(A) Set the flow indicator at the entrance to any bypass line that could divert the stream away from the control device to the atmosphere to take a reading at least once every 15 minutes; or

(B) If the bypass device valve installed at the inlet to the bypass device is secured in the closed position with a car-seal or lock-and-key type configuration, visually inspect the seal or closure mechanism at least once every month to verify that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line.

\* \* \* \* \*

65. Section 63.1369 is revised to read as follows:

**§ 63.1369 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1360 and 63.1362 and 63.1363. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also

occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods for under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart NNN—[Amended]**

66. Section 63.1388 is added to Subpart NNN to read as follows:

##### **§ 63.1388 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1380 and 63.1382.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart OOO—[Amended]**

67. Section 63.1419 is revised to read as follows:

##### **§ 63.1419 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a

delegated authority such as the applicable State, local, or tribal agency.

If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1400 and 63.1401 and 63.1404 through 63.1410. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart PPP—[Amended]**

68. Section 63.1421 is revised to read as follows:

##### **§ 63.1421 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this

subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1420, 63.1422, 63.1424 through 63.1428, and 63.1432 through 63.1436. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart RRR—[Amended]**

69. Section 63.1519 is revised to read as follows:

##### **§ 63.1519 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this regulation. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this regulation to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot

be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1500, 63.1505, and 63.1506.

(2) Approval of major alternatives to test methods for under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart TTT—[Amended]**

70. Section 63.1550 is revised to read as follows:

##### **§ 63.1550 Implementation and enforcement.**

(a) This subpart be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1541, 63.1543(a) through (c), (f) and (g), and 63.1544.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart VVV—[Amended]**

71. Section 63.1594 is revised to read as follows:

##### **§ 63.1594 Who enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1580, 63.1583, and § 63.1586.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

#### **Subpart XXX—[Amended]**

72. Section 63.1661 is revised to read as follows:

##### **§ 63.1661 Implementation and enforcement.**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to requirements in §§ 63.1650 and 63.1652 through 63.1654.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

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