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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[OAR-2003-0023; FRL-7852-3]

RIN 2060-AK49

**National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipments Leaks**

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

**ACTION:** Direct final rule; amendments.

**SUMMARY:** The EPA is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks. The standards are commonly known as the Hazardous Organic NESHAP or the HON. This action amends the HON to allow vapor balancing in conjunction with the use of a pressure setting to comply with the storage tank control requirements of the standards.

**DATES:** The direct final rule will be effective on March 8, 2005 without further notice, unless adverse comments are received by January 24, 2005, or by February 7, 2005 if a public hearing is requested. See the proposed rule amendments in this issue of the **Federal Register** for information on the hearing. If we receive timely adverse comments, we will withdraw the direct final rule and take final action pursuant to the proposed rule amendments.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OAR-2003-0023, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Agency Web site:* <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail:* [air-and-r-docket@epa.gov](mailto:air-and-r-docket@epa.gov).
- *Fax:* (202) 566-1741.
- *Mail:* EPA Docket Center, Environmental Protection Agency,

Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible.

- *Hand Delivery:* Air and Radiation Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B-108, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

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

*Instructions:* Direct your comments to Docket ID No. OAR-2003-0023. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

*Docket:* All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other

material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (Mail Code C504-04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5402, electronic mail address [mcdonald.randy@epa.gov](mailto:mcdonald.randy@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Regulated Entities.* The regulated category and entities affected by this action include:

Category	NAICS code	Examples of regulated entities
Industrial ....	325	Chemical manufacturing facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR 63.100. If you have questions regarding the applicability of the amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**What Should I Consider as I Prepare My Comments for EPA?**

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

accordance with procedures set forth in 40 CFR part 2.

#### *Tips for Preparing Your Comments.*

When submitting comments, remember to:

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

**Public Hearing.** Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (Mail Code C504-04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5402, electronic mail address [mcdonald.randy@epa.gov](mailto:mcdonald.randy@epa.gov), at least 2 days in advance of the potential date of the public hearing. Persons interested in attending the public hearing must also call Mr. Randy McDonald 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.

**Comments.** We are publishing the direct final rule without prior proposal because we view it as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rules section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed. If we receive any adverse comments on a specific element of the direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public which amendments will become effective and which amendments are being

withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule amendments. Any of the distinct amendments in the direct final rule for which we do not receive adverse comment will become effective on the date set out above. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

**World Wide Web (WWW).** In addition to being available in the docket, electronic copies of today's action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page <http://www.epa.gov/ttn/caaa>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

**Judicial Review.** Under section 307(b)(1) of the CAA, judicial review of the direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia by February 22, 2005. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review.

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

- I. Why are we publishing the amendments as a direct final rule?
- II. What amendments are we making to the HON?
- III. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Analysis
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Congressional Review Act

#### **I. Why Are We Publishing the Amendments as a Direct Final Rule?**

We are publishing the amendments without prior proposal because we view the changes as noncontroversial and anticipate no adverse comment. The final rule amendments to the HON increase flexibility by adding a new compliance option. The final rule amendments do not alter the stringency

of the standards, have no adverse health or environmental impacts, and will not increase costs. The compliance option of vapor balancing and use of a pressure setting to comply with storage tank control requirements has been used in several maximum achievable control technology (MACT) standards including the NESHAP for Pharmaceuticals Production, the NESHAP for Pesticide Active Ingredient Production, and the NESHAP for Miscellaneous Organic Chemical Manufacturing.

However, in the proposed rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed. If we receive any adverse comments on the direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendments are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

#### **II. What Amendments Are We Making to the HON?**

We are amending the HON to allow vapor balancing in conjunction with the use of a tank pressure setting to comply with the storage tank control requirements. Vapor balancing captures the displaced emissions, or working losses, from the storage tank and returns the vapors to the tank truck, railcar, or barge. To eliminate diurnal breathing losses from storage vessels, the vapor balancing provisions require a pressure setting of 2.5 pounds per square inch gage (psig) on the pressure-relief valve on storage vessels. The vapor balancing provision requires that displaced vapors from tank trucks and railcars be controlled at the reloading or cleaning facility to at least 95 percent, the control level of the standard.

As a means of demonstrating continuous compliance with the pressure setting requirement, the provisions require the owner or operator to record the pressure vent setting during each transfer operation and to monitor the pressure relief valve on a quarterly basis to ensure no breathing losses. To demonstrate compliance with the offsite provisions, the owner or operator must obtain a certification from the cleaning and reloading facility indicating that the control requirements will be met. In addition, tank trucks, railcars, and barges would be required to have current certification of compliance with pressure test

requirements, and the owner or operator would be required to keep a record of the certifications.

We are making the direct final rule amendments because they provide the industry with another compliance option, one that will result in emissions reductions equal to, or greater than, those achieved by the existing control options. The direct final rule amendments would also result in a more efficient use of resources because a tank owner would not have to purchase and operate control equipment if a liquid supplier agrees to capture the vapors from the tank and treat them offsite. Vapor balancing provisions identical to those we are adding to the HON are already included in the promulgated NESHAP for Pharmaceuticals Production, Pesticide Active Ingredient Production, and Miscellaneous Organic Chemical Manufacturing.

### III. Statutory and Executive Order Reviews

#### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in 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.

It has been determined that the final rule amendments are not a "significant regulatory action" under the terms of Executive Order 12866 and are, therefore, not subject to OMB review.

#### B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action gives a source owner or operator

the option of using vapor balancing to comply with the standards. Since it is only an option, this action will not increase the information collection burden. However, the OMB has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060-0282 (EPA ICR No. 1414.04).

A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW, Washington, DC 20460, or by calling (202) 566-1672. Include the ICR or OMB number in any correspondence.

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

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

#### C. Regulatory Flexibility Analysis

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule.

For purposes of assessing the impacts of today's amendments on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325 that has up to 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities (5 U.S.C. sections 603 and 604)." Thus, any agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden or otherwise has a positive economic effect on all of the small entities subject to the rule. The amendments add a compliance option granting greater flexibility to small entities subject to the HON that may result in a more efficient use of resources for them and, therefore, impose no additional regulatory costs or requirements on owners or operators of affected sources.

#### D. Unfunded Mandates Reform Act

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

governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially 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 EPA has determined that the final rule amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The final rule amendments provide a source owner or operator with another option to comply with the standards. Therefore, the final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132 (64 FR 43255, August 10, 1999) requires the 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.”

The final rule amendments 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. The final rule amendments provide a source owner or operator with another option to comply with the standards and, therefore, impose no additional burden on sources. Thus, Executive Order 13132 does not apply to the final rule amendments.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on the final rule amendments from State and local officials.

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

Executive Order 13175 (65 FR 67249, November 9, 2000) requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” The final rule amendments do not have tribal implications, as specified in Executive Order 13175. The final rule amendments provide a source owner or operator with another option to comply with the standards and, therefore, impose no additional burden on sources. Thus, Executive Order 13175 does not apply to the final rule amendments.

The EPA specifically solicits additional comment on the final rule amendments from tribal officials.

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

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today’s final rule amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the final rule amendments have been determined not to be “economically significant” as defined under Executive Order 12866.

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

The final rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

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

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

No new standard requirements are cited in the final rule amendments. Therefore, the EPA is not proposing or adopting any voluntary consensus standards in the final rule amendments.

#### *J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the direct final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the direct final rule in the **Federal Register**. The direct final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

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

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

Dated: December 16, 2004.

**Michael O. Leavitt,**  
Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations are 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 G—[AMENDED]**

- 2. Section 63.119 is amended by:
- a. Revising paragraphs (a)(1) and (2); and
- b. Adding paragraph (g).

The revisions and addition read as follows:

**§ 63.119 Storage vessel provisions—reference control technology.**

(a) \* \* \*

(1) For each Group 1 storage vessel (as defined in table 5 of this subpart for existing sources and table 6 of the subpart for new sources) storing a liquid for which the maximum true vapor pressure of the total organic hazardous air pollutants in the liquid is less than 76.6 kilopascals, the owner or operator shall reduce hazardous air pollutants emissions to the atmosphere either by operating and maintaining a fixed roof and internal floating roof, an external floating roof, an external floating roof converted to an internal floating roof, a closed vent system and control device, routing the emissions to a process or a fuel gas system, or vapor balancing in accordance with the requirements in paragraph (b), (c), (d), (e), (f), or (g) of this section, or equivalent as provided in § 63.121 of this subpart.

(2) For each Group 1 storage vessel (as defined in table 5 of this subpart for existing sources and table 6 of this subpart for new sources) storing a liquid for which the maximum true vapor pressure of the total organic hazardous air pollutants in the liquid is greater than or equal to 76.6 kilopascals, the owner or operator shall operate and maintain a closed vent system and control device meeting the requirements specified in paragraph (e) of this section, route the emissions to a process or a fuel gas system as specified in paragraph (f) of this section, vapor balance as specified in paragraph (g) of this section, or equivalent as provided in § 63.121 of this subpart.

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(g) The owner or operator who elects to vapor balance to comply with the requirements of paragraphs (a)(1) and (2) of this section shall comply with paragraphs (g)(1) through (7) of this section and the recordkeeping requirements of § 63.123(i).

(1) The vapor balancing system must be designed and operated to route organic HAP vapors displaced from loading of the storage tank to the railcar, tank truck, or barge from which the storage tank is filled.

(2) Tank trucks and railcars must have a current certification in accordance

with the U.S. Department of Transportation pressure test requirements of 49 CFR part 180 for tank trucks and 49 CFR 173.31 for railcars. Barges must have a current certification of vapor-tightness through testing in accordance with 40 CFR 63.565.

(3) Hazardous air pollutants must only be unloaded from tank trucks or railcars when vapor collection systems are connected to the storage tank's vapor collection system.

(4) No pressure relief device on the storage tank, or on the railcar or tank truck, shall open during loading or as a result of diurnal temperature changes (breathing losses).

(5) Pressure relief devices must be set to no less than 2.5 psig at all times to prevent breathing losses. Pressure relief devices may be set at values less than 2.5 psig if the owner or operator provides rationale in the notification of compliance status report explaining why the alternative value is sufficient to prevent breathing losses at all times. The owner or operator shall comply with paragraphs (g)(5)(i) through (iii) of this section for each pressure relief valve.

(i) The pressure relief valve shall be monitored quarterly using the method described in § 63.180(b).

(ii) An instrument reading of 500 ppmv or greater defines a leak.

(iii) When a leak is detected, it shall be repaired as soon as practicable, but no later than 5 days after it is detected, and the owner or operator shall comply with the recordkeeping requirements of § 63.181(d)(1) through (4).

(6) Railcars, tank trucks, or barges that deliver HAP to a storage tank must be reloaded or cleaned at a facility that utilizes the control techniques specified in paragraph (g)(6)(i) or (ii) of this section.

(i) The railcar, tank truck, or barge must be connected to a closed-vent system with a control device that reduces inlet emissions of HAP by 95 percent by weight or greater.

(ii) A vapor balancing system designed and operated to collect organic HAP vapor displaced from the tank truck, railcar, or barge during reloading must be used to route the collected HAP vapor to the storage tank from which the liquid being transferred originated.

(7) The owner or operator of the facility where the railcar, tank truck, or barge is reloaded or cleaned must comply with paragraphs (g)(7)(i) through (iii) of this section.

(i) Submit to the owner or operator of the storage tank and to the Administrator a written certification that the reloading or cleaning facility

will meet the requirements of this section. The certifying entity may revoke the written certification by sending a written statement to the owner or operator of the storage tank giving at least 90 days notice that the certifying entity is rescinding acceptance of responsibility for compliance with the requirements of this paragraph (g)(7).

(ii) If complying with paragraph (g)(6)(i) of this section, comply with the requirements for a closed vent system and control device specified in §§ 63.119 through 63.123.

(iii) If complying with paragraph (g)(6)(ii) of this section, keep the records specified in § 63.123(i)(3).

- 3. Section 63.123 is amended by adding paragraph (i) to read as follows:

**§ 63.123 Storage vessel provisions—recordkeeping.**

\* \* \* \* \*

(i) An owner or operator who elects to comply with § 63.119(g) shall keep the records specified in paragraphs (i)(1) through (3) of this section.

(1) A record of the U.S. Department of Transportation certification required by § 63.119(g)(2).

(2) A record of the pressure relief vent setting specified in § 63.119(g)(5).

(3) If complying with § 63.119(g)(6)(ii), keep the records specified in paragraphs (i)(3)(i) and (ii) of this section.

(i) A record of the equipment to be used and the procedures to be followed when reloading the railcar, tank truck, or barge and displacing vapors to the storage tank from which the liquid originates.

(ii) A record of each time the vapor balancing system is used to comply with § 63.119(g)(6)(ii).

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 268**

[RCRA–2004–0009; FRL–7854–2]

**Land Disposal Restrictions: Site-Specific Treatment Standard Variance for Selenium Waste for Chemical Waste Management, Chemical Services, LLC**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On November 19, 2004, the Environmental Protection Agency published a direct final rule to grant a