

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[AD-FRL-5976-3]

RIN 2060-A100

**National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** This action revises monitoring, recordkeeping, and reporting requirements of the "National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries" which was issued as a final rule August 18, 1995. This rule is commonly known as the Petroleum Refineries NESHAP.

**DATES:** The direct final rule will be effective May 19, 1998 unless significant, adverse comments are received by April 20, 1998. If significant, adverse comments are timely received EPA will publish timely notice in the **Federal Register** withdrawing the final rule.

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-93-48 (see docket section below), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

**Electronic Submittal of Comments**

Electronic comments can be sent directly to EPA at: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A-93-48. Electronic comments on the proposed rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Durham, Waste and Chemical Processes Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone number (919) 541-5672.

**SUPPLEMENTARY INFORMATION:** On August 18, 1995, the EPA promulgated the "National Emission Standards for

Hazardous Air Pollutants: Petroleum Refineries" (the "Petroleum Refineries NESHAP"). The NESHAP regulates hazardous air pollutants (HAP) emitted from new and existing refineries that are major sources of HAP emissions. The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry ..	Petroleum Refineries (Standard Industrial Classification Code 2911).

This table is not intended to be exhaustive but, rather, provides a guide for readers regarding entities likely to be interested in the revisions to the regulation affected by this action. To determine whether your facility is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR 63.640. If you have questions regarding the applicability of this action to a particular entity, consult the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

A companion proposal to this direct final rule is being published in today's **Federal Register** and is identical to this direct final rule. Any comments on the revisions to the Petroleum Refineries NESHAP should address that proposal. If significant adverse comments are timely received by the date specified in the proposed rule, this direct final rule will be withdrawn and the comments will be addressed in a subsequent final rule based on the proposed rule. If no significant adverse comments are timely filed on any provision of this direct final rule then the entire direct final rule will become effective 60 days from today's **Federal Register** action and no further action will be taken on the companion proposal published today.

**I. Background**

On August 18, 1995 (60 FR 43243), EPA promulgated in the **Federal Register** national emission standards for hazardous air pollutants (NESHAP) for petroleum refineries. These regulations were promulgated as subpart CC of 40 CFR part 63. As stated in the preamble to the promulgated rule, EPA pledged to continue working with industry to reduce the recordkeeping and reporting burden associated with the Petroleum Refineries NESHAP. The petroleum refining industry submitted suggestions for revisions to monitoring, recordkeeping, and reporting requirements. The EPA reviewed these suggestions and determined those to be included in today's action using several criteria. Included in today's action are

revisions that will reduce industry's monitoring, recordkeeping and reporting burden or provide clarification in cases where industry could interpret requirements in a way more burdensome than intended. EPA did not include suggested revisions that delete monitoring, reporting and recordkeeping requirements necessary to ensure compliance with control requirements of the rule or revisions that alter the applicability, stringency, or schedule of the Petroleum Refineries NESHAP or other rules.

Today's action also includes corrections to equations in the miscellaneous process vent provisions of the rule and corrections to typographical errors in references to Subpart Y National Emission Standards for Marine Tank Vessel Loading Operations.

**II. Revisions****A. Deletion of Requirement to Report That Actions Are Consistent With Startup, Shutdown, Malfunction Plan**

The Petroleum Refineries NESHAP requires that petroleum refineries develop and implement a plan that describes procedures for operating and maintaining the source during periods of startup, shutdown and malfunction, provides a program of corrective action for malfunctioning process and air pollution control equipment, and identifies all routine or otherwise predictable malfunctions of continuous monitoring systems (CMS). Currently, if a startup, shutdown or malfunction is experienced during a reporting period and the Startup, Shutdown, and Malfunction Plan (SSMP) is followed, the refinery is required to report that the SSMP was followed in the next periodic report. Similarly, if a CMS experiences a routine or otherwise predictable failure, as defined in the SSMP, it is to be repaired immediately and the action reported in the next periodic report. The EPA has determined that requiring refineries to report that the SSMP has been followed is inconsistent with the general approach of requiring periodic reporting only of information associated with periods of excess emissions. Actions consistent with the SSMP and immediate repair of CMS do not constitute violations of the Petroleum Refineries NESHAP. For this reason, today's action revises the requirement to report that the SSMP has been followed and immediate repairs to CMS have been made. Owners and operators will not be required to report when the SSMP is followed or when a CMS experiences a routine failure and is immediately repaired unless requested

to do so by the permitting authority. To ensure that following the SSMP and immediate repairs to CMS are documented, the requirements are retained to record when periods of startup, shutdown or malfunction occur and the SSMP is followed and when CMS experience routine or otherwise predictable failures and are immediately repaired.

#### *B. EFR Seal Gap Measurement Reporting Requirements*

The current Petroleum Refineries NESHAP requires that if, during a seal gap measurement for an external floating roof tank, it is determined that a storage vessel does not meet the requirements of the rule, a refinery must provide, in the next periodic report, the date of the seal gap measurement, raw data from the seal gap measurement, calculations performed to determine that requirements were not met, the specific conditions that were not met, and the nature and date of repair or the date the storage vessel was emptied. By today's action, the requirement to provide raw data and calculations is deleted. This action reduces the reporting burden and provides consistency with the information required to be reported when a failure is detected during a storage vessel inspection. The requirements to report the date of inspection, the vessel, conditions not met, and date the storage vessel was repaired or emptied are retained. The requirement to keep a record of the raw data and calculations is retained.

#### *C. Startup, Shutdown and Malfunction Plans (SSMP) for Wastewater*

As requirements for wastewater stream management units, the Petroleum Refineries NESHAP references the Benzene Waste Operation NESHAP, which does not contain a requirement for a startup, shutdown and malfunction plan (SSMP). The Petroleum Refineries NESHAP also references the general provisions requirement for a refinery SSMP. Revisions included in today's action clarify that an SSMP is optional for wastewater operations. The EPA did not intend to add additional requirements for wastewater beyond the Benzene NESHAP. However, owners and operators may wish to prepare an SSMP because it may reduce reporting when malfunctions occur. If there is an SSMP and it is followed in periods of startup, shutdown and malfunction, the incident is not required to be reported.

Today's action includes a revision that will allow owners and operators with wastewater stream management

units that are subject to both subpart CC and subpart G to comply with only subpart G. Subpart G requires an SSMP for wastewater stream management units. Today's action does not alter the requirement for an SSMP to be prepared for wastewater stream management units complying with subpart G.

#### *D. Overlap of Subpart FF and Subpart G for Wastewater Stream Management Units*

Currently, when a wastewater stream management unit receives streams subject to 40 CFR part 63, subpart CC (Petroleum Refineries NESHAP) and 40 CFR part 63, subpart G (the HON), the equipment is to be in compliance with the provisions of § 63.133 through § 63.137 of the HON, the requirements of § 63.143 and § 63.148 of the HON for monitoring, inspections, recordkeeping and reporting and all of the requirements of 40 CFR part 61, subpart FF National Emission Standards for Benzene Waste Operations except for § 61.355 and § 61.357, which include reporting and recordkeeping requirements.

The EPA recognizes that there is significant overlap between subparts FF and G. This issue was recently reviewed in revising parts of subpart G. It was determined that it is not possible to require only compliance with subpart FF as subpart FF was developed to control benzene emissions and compliance with subpart FF would not guarantee control of other HAPs. The selected alternative is to allow owners and operators the option to comply only with the requirements of subpart G. Requirements of subpart G were developed to control all HAP emissions and are as stringent as, if not more stringent than requirements of subpart FF. By today's action, the same approach is adopted for petroleum refineries. Today's action gives owners and operators of wastewater stream management units subject to the Petroleum Refineries NESHAP and subpart G the option to comply with only the requirements of subpart G.

#### *E. Notification Requirements for Failure to Follow SSMP*

Currently, refineries are required to report an action taken that is inconsistent with the startup, shutdown and malfunction plan (SSMP) to the Administrator within 2 days of commencing the action and within 7 days of completing the action. In addition to this requirement, refineries are to revise the SSMP if it is found to not address or inadequately address a startup, shutdown or malfunction. The revised SSMP is to be completed within

45 days of the event. The EPA has determined that it is not necessary for refineries to notify the Administrator of actions that are inconsistent with the SSMP within 2 days of commencing the action and within 7 days of completing the action for the Administrator to be able to evaluate the SSMP and request revisions if needed. Today's action deletes the requirement to notify the Administrator within 2 days of commencing an action that is inconsistent with the SSMP and within 7 days of completing that action and replaces it with a requirement to report actions taken that are inconsistent with the SSMP in the next periodic report.

#### *F. Identification of Group 2 Process Vents and Storage Vessels in the Notification of Compliance Status*

Currently, the Petroleum Refineries NESHAP requires owners and operators to identify Group 2 process vents and storage vessels in the Notification of Compliance Status (NCS). Group 2 emission points are subject to the NESHAP but are not subject to any control requirements. The EPA has determined that it is not necessary for refineries to provide an inventory of Group 2 emission points in the NCS. Because there are no control or reporting requirements associated with Group 2 emission points, it is not foreseen that the Administrator will require an inventory of Group 2 emission points for future reference. Additionally, an inventory of Group 2 emission points will be retained on-site. Today's action adds the requirement to submit the inventory to the permitting authority at the permitting authority's request. The requirement to keep a record of process vents and storage vessels and their group determination is not altered by today's action.

#### *G. Clarification of Requirements for Installation and Calibration of Continuous Monitoring Systems (CMS)*

According to the current Petroleum Refineries NESHAP, a continuous monitoring system (CMS) is to be installed and calibrated according to the manufacturer's specifications. Industry representatives have provided and EPA agrees that it is not always possible or desirable to install or calibrate equipment in exact accordance with the manufacturer's specifications. Minor adjustments must be made for most applications. Additionally, it may not be necessary to adhere to all the specifications provided by the manufacturer to ensure correct installation or calibration. By today's action, the directions for installing and calibrating CMS will be expanded to

allow for procedures to be followed other than those specified by the manufacturer.

#### *H. Requirement to Record the Signature of Owner or Operator When Equipment Leak Repairs are Delayed*

Under the promulgated petroleum refineries NESHAP, when an equipment leak is detected and it is determined that the leak cannot be repaired within 15 days, the facility is to record that the repair was delayed, the reason for the delay and the signature of the owner or operator (or designate) whose decision it was that the repair could not be affected without a process unit shutdown. By today's action, the requirement to record the signature of the owner or operator is revised to require the name of the person making the decision to be recorded. This revision will make the requirement compatible with electronic recordkeeping systems while maintaining the ability of the requirement to establish accountability.

#### *I. Exemption of Secondary Seal From Requirements During Primary Seal Gap Measurements*

The petroleum refineries NESHAP references a provision of the HON that allows secondary seals on external floating roof storage vessels to be exempt from seal gap requirements while the seal is temporarily pulled back during primary seal gap measurements. Subpart Kb of 40 CFR part 60 does not include such a provision. Today's action extends the provision exempting secondary seals from seal gap requirements during primary seal gap measurements to storage vessels subject to the Petroleum Refineries NESHAP that are to comply with subpart Kb. The EPA has determined the provision provides a necessary clarification that was not considered in development of subpart Kb. Today's action does not alter the stringency of control requirements of subpart Kb.

#### *J. Documentation of Compliance*

The Petroleum Refineries NESHAP requires that documentation of having achieved compliance be submitted in the Notification of Compliance Status (NCS) report, due within 150 days of the compliance date. A potential source of confusion is the lack of specific instructions regarding the NCS and gasoline loading racks. Refineries with co-located gasoline loading racks that are subject to the Petroleum Refineries NESHAP (subpart CC) are generally required by subpart CC to comply with the requirements of the Gasoline Distribution MACT. The Gasoline

Distribution MACT references notification requirements of the General Provisions. It is not clear when the notification is required for gasoline loading racks at petroleum refineries. By today's action, it is clarified that any notifications of compliance status required by the Gasoline Distribution MACT for gasoline loading racks co-located at refineries is to be submitted within 150 days of the Petroleum Refinery NESHAP compliance date.

#### *K. Revision of Notification of Compliance Status (NCS) Report Requirement for New Group 1 Emission Point*

In the promulgated Petroleum Refineries NESHAP, facilities are required to provide a NCS report for a new Group 1 emission point within 150 days of the change or addition of that point. By today's action, the reporting requirements are amended to allow the NCS report to be provided in the periodic report for the reporting period in which the Group 1 emission point is added. Today's action will reduce the burden of reporting through consolidating reports.

Periodic reports are due semiannually, within 60 days of the end of each 6-month reporting period. Through this amendment, it will be possible for a NCS report to be submitted more than 150 days after the addition of a Group 1 emission point. At most, if a change or addition is made at the beginning of a reporting period, the NCS may not be provided for eight months, approximately three months more than if the requirement to provide the report within 150 days was retained unchanged. Alternately, this revision may require an owner or operator to submit an NCS in less than 150 days. If an addition or change is made at the end of a reporting period, the NCS must be submitted with the next periodic report no more than 60 days after the end of the reporting period. This amendment does not change the amount of time in which a Group 1 emission point must be in compliance with the standards of the Petroleum Refineries NESHAP.

#### *L. Semiannual Reporting of Inspection Results*

For storage vessels complying with the reporting requirements of the Petroleum Refineries NESHAP, if a failure is detected during an inspection, it is required to be reported in the next periodic report. For storage vessels complying with subpart Kb or subpart Ka, if a failure is detected during an inspection, a report is to be provided to the Administrator within 30 days or 60 days, respectively. By today's action,

when a failure is detected during an inspection of a storage vessel subject to the Petroleum Refineries NESHAP that is to comply with subpart Kb or subpart Ka, the failure is to be reported in the next periodic report. This revision provides consistency for reporting requirements between storage vessels that are to comply with the NESHAP and storage vessels that are to comply with subpart Kb and subpart Ka, without altering the control requirements of subpart Kb or Ka.

#### *M. Extensions for EFR Seal Gap Measurements*

As discussed previously, storage vessels subject to the Petroleum Refineries NESHAP and a new source performance standard (40 CFR part 60, subpart K, Ka or Kb) are only required to comply with one of the standards. Procedures are specified for external floating roof storage vessels that must comply with the refinery MACT to allow seal gap measurements to be delayed if it is determined that it is unsafe to perform the measurement. Provisions allow the gap measurements to be delayed for 30 days while the unsafe conditions are corrected. If the unsafe conditions cannot be corrected within that time period, the vessel is to be emptied within 45 days of the determination that the roof is unsafe. The owner or operator may use up to two extensions of 30 days each to empty the tank. There are no such provisions in subpart Ka or Kb.

Today's action extends the provision to allow seal gap measurements to be delayed due to unsafe conditions to storage vessels subject to the Petroleum Refineries NESHAP that are to comply with subparts Ka and Kb. The EPA has determined that the extension provision provides necessary guidance for owners and operators in circumstances that were not considered in the development of subparts Ka and Kb. Today's action does not alter the stringency of control requirements of subpart Ka or Kb.

#### *N. Extensions for Storage Vessel Repairs*

In the Petroleum Refineries NESHAP, when an internal floating roof is discovered to not meet the requirements of the standard, it must be repaired or the associated storage vessel taken out of service and emptied within 45 days. If a storage vessel cannot be emptied or repaired within 45 days, the owner or operator may use up to two extensions of 30 days each. If an extension is utilized, the owner or operator must, in the next periodic report, identify the vessel, provide a description of the failure, document that alternate storage capacity is unavailable, and specify a

schedule of actions that will ensure that the control equipment will be repaired or the vessel will be emptied as soon as possible. Subpart Kb does not include provisions to be followed in the event that a failure is detected during an inspection of a storage vessel control device and the storage vessel cannot be repaired or emptied within 45 days.

Today's action extends the provision to allow for delays in repairing or emptying a storage vessel found to be out of compliance to storage vessels subject to the Petroleum Refineries NESHAP that are to comply with subpart Kb. The EPA has determined that the provision provides necessary guidance for owners and operators in circumstances that were not considered in the development of subpart Kb. Today's action does not alter the stringency of control requirements of subpart Kb.

#### *O. Definition of Gasoline*

In the current Petroleum Refineries NESHAP, no definition is provided for gasoline although gasoline loading racks at affected facilities are subject to subpart CC. By today's action, a definition for gasoline is added to the definitions in subpart CC. The definition is taken from 40 CFR part 60, Subpart XX Standards of Performance for Bulk Gasoline Terminals.

#### *P. Report of Determination of Applicability for Flexible Operation Units and for Distillation Columns and Storage Vessels for Which Use Varies*

The Petroleum Refineries NESHAP requires a report of the determination of the applicability of subpart CC to process units designed and operated as flexible operation units, and storage vessels and distillation units for which use varies from year to year. For existing units, this report is to be submitted no later than 18 months prior to the compliance date. With the exception of reports required for emission points included in emissions averaging, no other reports are required prior to the compliance date. By today's action, the requirement is revised to allow applicability determinations for flexible operation units and distillation columns and storage vessels for which use varies to be reported in the initial Notification of Compliance Status report. This revision provides consistency between reporting requirements and reduces burden by consolidating reports. This revision does not alter the date by which existing units must be in compliance with the Petroleum Refineries NESHAP.

#### *Q. Compliance of Agitators With Equipment Leaks Provisions*

Currently, owners and operators of refineries can comply with the equipment leaks provisions of the NESHAP by complying with the equipment leaks provisions of subpart H. Some of the referenced provisions of subpart H refer to agitators in heavy liquid service. As stated on pages 8-3 of the background information document for the final rule (EPA-453/R-95-015b), the provisions of the Petroleum Refineries NESHAP are not intended to apply to agitators. It is possible that, due to the references to agitators in subpart H, subpart CC could be interpreted as applying to agitators. Today's action revises the Petroleum Refineries NESHAP to specifically state that owners and operators of facilities subject to subpart CC are not required to comply with subpart H for agitators in heavy liquid service.

#### *R. Overlap of Subparts XX and R for Gasoline Loading Racks*

The current Petroleum Refineries NESHAP requires gasoline loading racks located at refineries to be in compliance with the control requirements of 40 CFR part 63, Subpart R National Emission Standards for Gasoline Distribution Facilities. New gasoline loading racks are also subject to 40 CFR part 60, Subpart XX, the New Source Performance Standard (NSPS) for bulk gasoline terminals. It is currently possible for a gasoline loading rack at a petroleum refinery to be subject to both subparts R and XX. Today's action revises the Petroleum Refineries NESHAP to require petroleum refineries with gasoline loading racks subject to both subparts R and XX to comply with the control requirements of subpart R. This revision does not alter the stringency of the rule as the control requirements of subpart R are more stringent than the control requirements of subpart XX.

#### *S. Corrections to Miscellaneous Process Vent Equations*

Following promulgation of the Petroleum Refineries NESHAP, two errors were discovered in two equations to be used to calculate kilograms per day of volatile organic compounds (VOC) in miscellaneous process vent streams. If used as currently presented, the equations will cause facilities to underestimate kilograms per day of VOC by a factor of 24 or 1,000. Today's action corrects these equations. These corrections do not alter the monitoring, recordkeeping, or reporting

requirements or control requirements of the rule as originally intended.

#### *T. Revision of Notification of Compliance Status Report Requirement for Existing Group 1 Storage Vessels Brought Into Compliance After August 18, 1998*

The Petroleum Refineries NESHAP allows floating roof storage vessels to be brought into compliance up to 10 years after August 18, 1998, the compliance date for other emission points. A Notification of Compliance Status (NCS) report is required to be submitted when these vessels are brought into compliance. Currently, it is not clear when the NCS report is to be submitted.

Today's revision will require a NCS report to be submitted for storage vessels brought into compliance after August 18, 1998 with the periodic report for the reporting period in which the vessel was brought into compliance. The report will include a list of Group 1 storage vessels and either the actual or anticipated date of compliance for each vessel.

This revision provides needed clarification and allows for the consolidation of reports.

### **III. Reduction in Burden**

The revisions included in today's action are expected to reduce the annual recordkeeping and reporting burden associated with this NESHAP by 80 technical hours per refinery and 13,200 technical hours nationwide.

### **IV. Judicial Review**

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the actions taken by this final rule is available only on the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this action. Under section 307(b)(2) of the CAA, the requirements that are subject to today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

### **V. Administrative**

#### *A. Paperwork Reduction Act*

The information collection requirements in the promulgated Petroleum Refineries NESHAP rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and have been assigned a control number 2060-0340. However, this approval has expired and the information collection request is currently in the reinstatement process. The information collection request has

been revised to reflect the revisions to monitoring, recordkeeping and reporting requirements made by today's action. The collection of information has an estimated annual reporting and recordkeeping burden averaging 3,000 hours per respondent. This estimate includes time for reviewing instructions; developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjusting existing ways to comply with any previously applicable instructions and requirements; completing and reviewing the collection of information; and transmitting or otherwise disclosing the information.

The burden estimate reflects an annual reduction of 13,200 technical hours, as compared to the estimate at promulgation, resulting from the revisions made by today's action.

#### B. Executive Order 12866 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 OMB review and the requirements of the Executive Order. The Order defines a "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 land 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.

Because today's action decreases the burden of the Petroleum Refineries NESHAP without altering the stringency, applicability, or schedule of the NESHAP or other rules, this rule was classified "non-significant" under Executive Order 12866 and, therefore was not reviewed by the Office of Management and Budget.

#### C. Regulatory Flexibility

The EPA has determined that it is not necessary to prepare a regulatory

flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant negative economic impact on a substantial number of small entities. This direct final rule will not have a significant negative impact on a substantial number of small entities because it revises monitoring, recordkeeping, and reporting requirements and reduces the associated burden for all affected facilities, including small entities.

#### 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, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires 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 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 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, 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.

At the time of promulgation, EPA determined that the Petroleum Refineries NESHAP does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal

governments in the aggregate or to the private sector. This determination is not altered by today's action, the purpose of which is to reduce the burden associated with monitoring, recordkeeping, and reporting requirements. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### E. Submission to Congress and the Comptroller General

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 this 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 rule in the **Federal Register**. This 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, Air pollution control, Hazardous air pollutants, Petroleum refineries, Reporting and recordkeeping requirements, Storage vessels.

Dated: March 4, 1998.

**Carol M. Browner,**  
Administrator.

For reasons set out in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is 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 CC—National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

2. Amend § 63.640 by revising paragraphs (k)(2)(vii), (n)(1), (n)(3), and (n)(6); by adding paragraphs (n)(8), (n)(9) and (r); and by revising paragraph (o)(2) to read as follows:

#### § 63.640 Applicability and designation of affected source.

\* \* \* \* \*

(k) \* \* \*

(2) \* \* \*

(vii) Reports and notifications required by §§ 63.565 and 63.567 of

subpart Y. These requirements are summarized in table 5 of this subpart.

\* \* \* \* \*

(n) \* \* \*

(1) After the compliance dates specified in paragraph (h) of this section, a Group 1 or Group 2 storage vessel that is part of an existing source and is also subject to the provisions of 40 CFR part 60, subpart Kb is required to comply only with the requirements of 40 CFR part 60, subpart Kb, except as provided in paragraph (n)(8) of this section.

\* \* \* \* \*

(3) After the compliance dates specified in paragraph (h) of this section, a Group 2 storage vessel that is part of a new source and is subject to the control requirements in § 60.112b of 40 CFR part 60, subpart Kb is required to comply only with 40 CFR part 60, subpart Kb except as provided in paragraph (n)(8) of this section.

\* \* \* \* \*

(6) After compliance dates specified in paragraph (h) of this section, a Group 2 storage vessel that is subject to the control requirements of 40 CFR part 60, subparts K or Ka is required to comply only with the provisions of 40 CFR part 60, subparts K or Ka, except as provided for in paragraph (n)(9) of this section.

\* \* \* \* \*

(8) Storage vessels described by paragraphs (n)(1) and (n)(3) of this section are to comply with subpart Kb of 40 CFR part 60 except as provided for in paragraphs (n)(8)(i) through (n)(8)(vi) of this section.

(i) Storage vessels that are to comply with 40 CFR 60.112b(a)(2) of subpart Kb are exempt from the secondary seal requirements of 40 CFR 60.112b(a)(2)(i)(B), during the gap measurements for the primary seal required by 40 CFR 60.113b(b) of subpart Kb.

(ii) If the owner or operator determines that it is unsafe to perform the seal gap measurements required in 40 CFR 60.113b(b) of subpart Kb or to inspect the vessel to determine compliance with 40 CFR 60.113b(a) of subpart Kb because the roof appears to be structurally unsound and poses an imminent danger to inspecting personnel, the owner or operator shall comply with the requirements in either § 63.120(b)(7)(i) or § 63.120(b)(7)(ii) of subpart G.

(iii) If a failure is detected during the inspections required by 40 CFR § 60.113b(a)(2) or during the seal gap measurements required by 40 CFR 60.113b(b)(1), and the vessel cannot be repaired within 45 days and the vessel cannot be emptied within 45 days, the

owner or operator may utilize up to two extensions of up to 30 additional calendar days each. The owner or operator is not required to provide a request for the extension to the Administrator.

(iv) If an extension is utilized in accordance with paragraph (n)(8)(iii) of this section, the owner or operator shall, in the next periodic report, identify the vessel, provide the information listed in 40 CFR 60.113b(a)(2) or 60.113b(b)(4)(iii), and describe the nature and date of the repair made or provide the date the storage vessel was emptied.

(v) Owners and operators of storage vessels complying with subpart Kb of 40 CFR Part 60 may submit the inspection reports required by 40 CFR 60.115b(a)(3), (a)(4), and (b)(4) of Subpart Kb as part of the periodic reports required by this subpart, rather than within the 30-day period specified in 40 CFR 60.115b(a)(3), (a)(4), and (b)(4) of Subpart Kb.

(vi) The reports of rim seal inspections specified in 40 CFR 60.115b(b)(2) are not required if none of the measured gaps or calculated gap areas exceed the limitations specified in 40 CFR 60.113b(b)(4). Documentation of the inspections shall be recorded as specified in 40 CFR 60.115b(b)(3).

(9) Storage vessels described by paragraph (n)(6) of this section which are to comply with 40 CFR part 60, subpart Ka, are to comply with only 40 CFR part 60, subpart Ka, except as provided for in paragraphs (n)(9)(i) through (n)(9)(iv) of this section.

(i) If the owner or operator determines that it is unsafe to perform the seal gap measurements required in 40 CFR 60.113a(a)(1) of subpart Ka because the floating roof appears to be structurally unsound and poses an imminent danger to inspecting personnel, the owner or operator shall comply with the requirements in either §§ 63.120(b)(7)(i) or (b)(7)(ii) of subpart G.

(ii) If a failure is detected during the seal gap measurements required by 40 CFR 60.113a(a)(1) of subpart Ka, and the vessel cannot be repaired within 45 days and the vessel cannot be emptied within 45 days, the owner or operator may utilize up to 2 extensions of up to 30 additional calendar days each.

(iii) If an extension is utilized in accordance with paragraph (n)(9)(ii) of this section, the owner or operator shall, in the next periodic report, identify the vessel, describe the nature and date of the repair made or provide the date the storage vessel was emptied. The owner or operator shall also provide documentation of the decision to utilize an extension including a description of

the failure, documentation that alternate storage capacity is unavailable, a schedule of actions that will ensure that the control equipment will be repaired or the vessel emptied as soon as possible.

(iv) Owners and operators of storage vessels complying with subpart Ka of part 60 may submit the inspection reports required by 40 CFR 60.113a(a)(1)(i)(E) of subpart Ka as part of the periodic reports required by this subpart, rather than within the 60-day period specified in 40 CFR 60.113a(a)(1)(i)(E) of subpart Ka.

(o) \* \* \*

(2) After the compliance dates specified in paragraph (h) of this section a Group 1 or Group 2 wastewater stream that is conveyed, stored, or treated in a wastewater stream management unit that also receives streams subject to the provisions of §§ 63.133 through 63.147 of subpart G wastewater provisions of this part shall comply as specified in paragraph (o)(2)(i) or (o)(2)(ii) of this section. Compliance with the provisions of paragraph (o)(2) of this section shall constitute compliance with the requirements of this subpart for that wastewater stream.

(i) Comply with paragraphs (o)(2)(i)(A) through (o)(2)(i)(C) of this section.

(A) The provisions in §§ 63.133 through 63.140 of subpart G for all equipment used in the storage and conveyance of the Group 1 or Group 2 wastewater stream.

(B) The provisions in both 40 CFR part 61, subpart FF, and in §§ 63.138 and 63.139 of subpart G for the treatment and control of the Group 1 or Group 2 wastewater stream.

(C) The provisions in §§ 63.143 through 63.148 of subpart G for monitoring and inspections of equipment and for recordkeeping and reporting requirements. The owner or operator is not required to comply with the monitoring, recordkeeping, and reporting requirements associated with the treatment and control requirements in 40 CFR part 61, subpart FF, §§ 61.355 through 61.357.

(ii) Comply with paragraphs (o)(2)(ii)(A) and (o)(2)(ii)(B) of this section.

(A) Comply with the provisions of §§ 63.133 through 63.148 and §§ 63.151 and 63.152 of subpart G

(B) For any Group 2 wastewater stream or organic stream whose benzene emissions are subject to control through the use of one or more treatment processes or waste management units under the provisions of 40 CFR part 61, subpart FF, on or after December 31, 1992, comply with the requirements of

§§ 63.133 through 63.147 of subpart G for Group 1 wastewater streams.

\* \* \* \* \*

(r) Overlap of this subpart CC with other regulations for gasoline loading racks.

(1) After the compliance dates specified in paragraph (h) of this section, a Group 1 gasoline loading rack that is part of a source subject to subpart CC and also is subject to the provisions of 40 CFR part 60, subpart XX is required to comply only with this subpart.

(2) [Reserved]

3. Amend § 63.641 by adding in alphabetical order a definition for "gasoline" to read as follows:

**§ 63.641 Definitions.**

\* \* \* \* \*

*Gasoline* means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals or greater which is used as a fuel for internal combustion engines.

\* \* \* \* \*

4. Amend § 63.644 by revising the last sentence of paragraph (a) introductory text to read as follows:

**§ 63.644 Monitoring provisions for miscellaneous process vents.**

(a) \* \* \* All monitoring equipment shall be installed, calibrated, maintained, and operated according to manufacturer's specifications or other written procedures that provide adequate assurance that the equipment will monitor accurately.

\* \* \* \* \*

5. Amend § 63.645 by revising the definition of "K<sub>2</sub>" in paragraph (f)(4) and revising paragraph (f)(5) to read as follows:

\* \* \* \* \*

**§ 63.645 Test methods and procedures for miscellaneous process vents.**

\* \* \* \* \*

(f) \* \* \*

(4) \* \* \*

K<sub>2</sub>=Constant, 5.986×10<sup>-5</sup> (parts per million)<sup>-1</sup> (gram-mole per standard cubic meter) (kilogram per gram) (minute per day), where the standard temperature (standard cubic meter) is at 20 °C.

(5) If Method 25A is used the emission rate of TOC (ETOC) shall be calculated using the following equation:

$$E=K_2C_{TOC}MQ_s$$

where:

E=Emission rate of TOC (minus methane and ethane) in the sample, kilograms per day.

K<sub>2</sub>=Constant, 5.986 x 10<sup>-5</sup> (parts per million)<sup>-1</sup> (gram-mole per standard

cubic meter) (kilogram per gram) (minute per day), where the standard temperature (standard cubic meter) is at 20 °C.

C<sub>TOC</sub>=Concentration of TOC on a dry basis in parts per million volume as measured by Method 25A of 40 CFR part 60, appendix A, as indicated in paragraph (f)(3) of this section.

M=Molecular weight of organic compound used to express units of C<sub>TOC</sub>, gram per gram-mole.

Q<sub>s</sub>=Vent stream flow rate, dry standard cubic meters per minute, at a temperature of 20 °C.

\* \* \* \* \*

6. Amend § 63.648 by revising paragraph (e) to read as follows:

**§ 63.648 Equipment leak standards.**

\* \* \* \* \*

(e) For reciprocating pumps in heavy liquid service, and agitators in heavy liquid service, owners and operators are not required to comply with the requirements in § 63.169 of subpart H.

\* \* \* \* \*

7. Amend § 63.654 by revising the first sentence of paragraph (a); revising paragraphs (d)(1), (f) introductory text, (f)(1)(i)(A), (f)(1)(ii); adding paragraph (f)(6); revising the last sentence of paragraph (g)(3)(i) introductory text; removing paragraph (g)(3)(i)(B); redesignating paragraphs (g)(3)(i)(C) and (g)(3)(i)(D) as (g)(3)(i)(B) and (g)(3)(i)(C); revising paragraph (h)(1); revising the first two sentences of paragraph (h)(6) introductory text; and adding paragraph (i)(5).

\* \* \* \* \*

**§ 63.654 Reporting and recordkeeping requirements.**

(a) Each owner or operator subject to the wastewater provisions in § 63.647 shall comply with the recordkeeping and reporting provisions in 40 CFR 61.356 and 61.357 of subpart FF unless they are complying with the wastewater provisions specified in § 63.640(o)(2)(ii).

\* \* \*

\* \* \* \* \*

(d) \* \* \*

(1) Sections 60.486 and 60.487 of subpart VV of 40 CFR part 60, except as specified in paragraph (d)(1)(i); or §§ 63.181 and 63.182 of subpart H of this part except for §§ 63.182 (b), (c)(2), and (c)(4).

(i) The signature of the owner or operator (or designate) whose decision it was that a repair could not be effected without a process shutdown is not required to be recorded. Instead, the name of the person whose decision it was that a repair could not be effected without a process shutdown shall be recorded and retained for 2 years.

(ii) [Reserved]

\* \* \* \* \*

(f) Each owner or operator of a source subject to this subpart shall submit a Notification of Compliance Status report within 150 days after the compliance dates specified in § 63.640(h), with the exception of Notification of Compliance Status reports submitted to comply with § 63.640(l)(3) and for storage vessels subject to the compliance schedule specified in § 63.640(h)(4). Notification of Compliance Status reports required by § 63.640(l)(3) and for storage vessels subject to the compliance dates specified in § 63.640(h)(4) shall be submitted according to paragraph (f)(6) of this section. This information may be submitted in an operating permit application, in an amendment to an operating permit application, in a separate submittal, or in any combination of the three. If the required information has been submitted before the date 150 days after the compliance date specified in § 63.640(h), a separate Notification of Compliance Status report is not required within 150 days after the compliance dates specified in § 63.640(h). If an owner or operator submits the information specified in paragraphs (f)(1) through (f)(5) of this section at different times, and/or in different submittals, later submittals may refer to earlier submittals instead of duplicating and resubmitting the previously submitted information. Each owner or operator of a gasoline loading rack classified under Standard Industrial Classification Code 2911 located within a contiguous area and under common control with a petroleum refinery subject to the standards of this subpart shall submit the Notification of Compliance Status report required by subpart R of this part within 150 days after the compliance dates specified in § 63.640(h) of this subpart.

(1) \* \* \*

(i) \* \* \*

(A) For each Group 1 storage vessel subject to this subpart, the information specified in paragraphs (f)(1)(i)(A)(1) through (f)(1)(i)(A)(4). This information is to be revised each time a Notification of Compliance Status report is submitted for a storage vessel subject to the compliance schedule specified in § 63.640(h)(4) or to comply with § 63.640(l)(3).

(1) Identification of each Group 1 storage vessel subject to this subpart. Group 2 storage vessels do not need to be identified unless included in an emissions average.

(2) For each Group 1 storage vessel complying with § 63.646 that is not

included in an emissions average, the method of compliance (i.e., internal floating roof, external floating roof, or closed vent system and control device).

(3) For storage vessels subject to the compliance schedule specified in § 63.640(h)(4) that are not complying with § 63.646, the anticipated compliance date.

(4) For storage vessels subject to the compliance schedule specified in § 63.640(h)(4) that are complying with § 63.646 and the Group 1 storage vessels described in § 63.640(l), the actual compliance date.

\* \* \* \* \*

(ii) For miscellaneous process vents, identification of each Group 1 miscellaneous process vent subject to this subpart and the method of compliance for each Group 1 miscellaneous process vent that is not included in an emissions average (e.g., use of a flare or other control device meeting the requirements of § 63.643(a)). Group 2 miscellaneous process vents do not need to be identified in the Notification of Compliance Status report unless included in an emissions average.

\* \* \* \* \*

(6) Notification of Compliance Status reports required by § 63.640(l)(3) and for storage vessels subject to the compliance dates specified in § 63.640(h)(4) shall be submitted no later than 60 days after the end of the 6-month period during which the change or addition was made that resulted in the Group 1 emission point or the existing Group 1 storage vessel was brought into compliance, and may be combined with the periodic report. Six-month periods shall be the same 6-month periods specified in paragraph

(g) of this section. The Notification of Compliance Status report shall include the information specified in paragraphs (f)(1) through (f)(5) of this section. This information may be submitted in an operating permit application, in an amendment to an operating permit application, in a separate submittal, as part of the periodic report or in any combination of these four. If the required information has been submitted before the date 60 days after the end of the 6-month period in which the addition of the Group 1 emission point took place, a separate Notification of Compliance Status report is not required within 60 days after the end of the 6-month period. If an owner or operator submits the information specified in paragraphs (f)(1) through (f)(5) of this section at different times, and/or in different submittals, later submittals may refer to earlier submittals instead of duplicating and resubmitting the previously submitted information.

(g) \* \* \*

(3) \* \* \*

(i) \* \* \* This documentation shall include the information specified in paragraphs (g)(3)(i)(A) through (g)(3)(i)(C) of this section.

\* \* \* \* \*

(h) \* \* \*

(1) Reports of startup, shutdown, and malfunction required by § 63.10(d)(5) as specified in table 6 of this subpart. Records and reports of startup, shutdown, and malfunction are not required if they pertain solely to Group 2 emission points, as defined in § 63.641, that are not included in an emissions average. The periodic reports of startup, shutdown, and malfunction specified in § 63.10(d)(5)(i) are not

required if the actions taken by an owner or operator during a startup, shutdown, or malfunction are consistent with the source's startup, shutdown, and malfunction plan required by § 63.6(e)(3) unless requested by the permitting authority. The operator shall comply with the reporting requirements of § 63.10(d)(5)(ii) if the startup, shutdown, and malfunction plan is not followed, except as specified in table 6 of this subpart. For purposes of this paragraph, startup and shutdown shall have the meaning defined in § 63.641, and malfunction shall have the meaning defined in § 63.2;

\* \* \* \* \*

(6) The owner or operator shall submit the information specified in paragraphs (h)(6)(i) through (h)(6)(iii) of this section, as applicable. For existing sources, this information shall be submitted in the initial Notification of Compliance Status report. \* \* \*

\* \* \* \* \*

(i) \* \* \*

(5) In addition to the information reported under paragraphs (a) through (h) of this section, the information listed in paragraphs (i)(5)(i) and (i)(5)(ii) shall be retained on-site. The information listed in (i)(5)(i) shall be submitted upon the request of the permitting authority.

(i) A record identifying all Group 2 miscellaneous process vents.

(ii) A record identifying all Group 2 storage vessels, their dimensions and capacity.

8. In table 5 in the appendix of subpart CC, remove the entries for "63.566(a)" and "63.566(b)" and add two entries, in numerical order, to read as follows:

TABLE 5.—MARINE VESSEL LOADING AND UNLOADING OPERATIONS RECORDKEEPING AND REPORTING REQUIREMENTS<sup>a</sup>

Reference (section of subpart Y of this part)	Description	Comment
63.565(a) .....	Performance test/site test plan .....	The information required under this paragraph is to be submitted with the notification of compliance status report required under 40 CFR part 63 subpart CC.
63.565(b) .....	Performance test data requirements.	
* * * * *		

<sup>a</sup>This table does not include all the requirements delineated under the sections. See referenced sections for specific requirements

9. In table 6 in the appendix of subpart CC, remove the entries for "63.6(e)", "63.8(c)(1)(i)", "63.8(c)(3)", "63.10(d)(5)(i)", and "63.10(d)(5)(ii)" and add five entries in numerical order, to read as follows:



TABLE 6.—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC<sup>a</sup>

Reference	Applies to subpart CC	Comment
§ 63.6(e)	Yes	Does not apply to Group 2 emission points. <sup>b</sup> The startup, shutdown, and malfunction plan specified in § 63.6(e)(3) is not required for wastewater operations that are not subject to subpart G of this part. Except that actions taken during a startup, shutdown, or malfunction that are not consistent with the startup, shutdown, and malfunction plan do not need to be reported within 2 and 7 days of commencing and completing the action, respectively, but must be included in the next periodic report.
§ 63.8(c)(1)(i)	Yes	Except that if "routine" or otherwise predictable malfunctions, as defined in the source's startup, shutdown and malfunction plan, are immediately corrected, the source is not required to report the action in the semiannual startup, shutdown, and malfunction report required under § 63.10(d)(i) unless requested to do so by the permitting authority.
§ 63.8(c)(3)	Yes	Except that verification of operational status shall, at a minimum, include completion of the manufacturer's written specifications or recommendations for installation, operation, and calibration of the system or other written procedures that provide adequate assurance that the equipment would monitor accurately.
§ 63.10(d)(5)(i)	Yes <sup>b</sup>	Except that reports are not required to be submitted unless they are requested by the permitting authority.
§ 63.10(d)(5)(ii)	Yes	Except that actions taken during a startup, shutdown, or malfunction that are not consistent with the startup, shutdown, and malfunction plan do not need to be reported within 2 and 7 days of commencing and completing the action, respectively, but must be included in the next periodic report.

<sup>a</sup> Wherever subpart A specifies "postmark" dates, submittals may be sent by methods other than the U.S. Mail (e.g., by fax or courier). Submittals shall be sent by the specified dates, but a postmark is not required.

<sup>b</sup> The plan, and any records or reports of startup, shutdown, and malfunction do not apply to Group 2 emission points.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-300613; FRL-5769-8]

RIN 2070-AB78

**Acephate; Technical Amendment**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is issuing a technical amendment to the acephate tolerances to add food additive regulations for use of acephate in food handling establishments.

**DATES:** This rule becomes effective March 20, 1998. Written objects and

hearing requests must be received by May 19, 1998.  
**FOR FURTHER INFORMATION CONTACT:** By mail, Jeffrey Morris, Special Review Branch (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail: 3rd floor, Crystal Station, 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8029; e-mail: morris.jeffrey@epamail.epa.gov.  
**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP-300613], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy

of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300613], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.