

Summary of **Significant Changes** to Part 63, Subpart A, General Provisions

On March 16, 1994, under Part 63, we (EPA) promulgated subpart A, General Provisions, which required that all standards promulgated under the National Emission Standards for Hazardous Air Pollutants (NESHAP) comply with the provisions of subpart A. NESHAP standards (often called MACT standards) are promulgated under Part 63, pursuant to section 112 of the Clean Air Act (as amended in 1990) and are based on Maximum Achievable Control Technology (MACT).

On April 5, 2002 [67 FR 16582], we promulgated amendments to revise and clarify the Part 63 General Provisions. Minor amendments were also promulgated on February 12, 1999. The purpose of this summary is to provide an overview of significant changes that have been made to the original requirements.

Who is subject to the General Provisions, as amended?

You are subject to the General Provisions as amended on April 5, 2002 if the relevant NESHAP standard with which you wish to comply specifically incorporates the amended subpart A sections. By this, we mean that not all General Provisions requirements apply to every standard, and an individual standard may specify that certain General Provisions requirements do not apply. In most cases, a NESHAP promulgated after March 1994 includes a table that cross-references the General Provisions, showing which General Provisions sections are relevant to it.

The General Provisions also apply to you if your source is subject to any of the following other relevant standards (or regulatory requirements): 112(f) Residual Risk; 112(g) Major Source Modification MACT Determination; 112(h) NESHAP Work Practice Standard; or 112(j) Equivalent Emission Limitation by Permit MACT Determination.

What changes were made to the General Provisions?

Specific changes to the General Provisions, based on rule amendments promulgated April 5, 2002, can be found in Tables 1 through 10. Each table outlines changes based on specific sections of the General Provisions. For example, to find changes made to section 63.1, go to Table 1. If you need information on section 63.2, then go to Table 2, etc.

There are no changes in the 2002 amendments to sections 63.3, 63.12, 63.13, 63.14, and 63.15 of the General Provisions and, therefore, tables for these sections have not been included here. Please note that "GP" within the table text means General Provisions.

Table 1. Significant Changes to Section 63.1 [Applicability] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.1(a)(3)	Complying with NESHAP in lieu of other standards	Addition to paragraph	If specifically stated in a NESHAP, a source that's also subject to provisions of the Act outside of those in Part 63 (for example, NSPS) will only have to comply with the NESHAP. For example, it is stated in the NESHAP for the Synthetic Organic Chemical Manufacturing Industry (SOCMI) (also referred to as the "HON NESHAP") that compliance with the NESHAP constitutes compliance with various New Source Performance Standards (in Part 60) for equipment leaks. [See paragraph (c) of 40 CFR 63.160.]
63.1(a)(4)	Explicitly identifying which GP are included	Revision	All future Part 63 standards must explicitly identify whether each of these GP is included (usually as a table). Under the original GP, each provision applies unless it's otherwise specified in the relevant standard.
63.1(b)(3)	Need for applicability determination	Revision	An owner or operator of a stationary source who determines that his or her source is in the relevant source category but is not subject to a relevant standard or other Part 63 requirement must keep a record of applicability determination as specified in §63.10(b)(3). This paragraph was changed to clarify that this requirement is only for source categories that a facility falls under, not for other source categories.

Table 1. Significant Changes to Section 63.1 of Subpart A, General Provisions (cont'd)

Citation of Change	Topic of Change	Type of Change	Description of Change
63.1(e)	Promulgated standards and 112(j) limits	Revision	If a standard is promulgated pursuant to sections 112(d) or (h) ¹ , and it applies to a source that is already subject to a case-by-case emission limit pursuant to section 112(j), then the source's owner or operator may request revision of the title V permit to reflect that the 112(j) ¹ limit is substantially as effective as the promulgated emission standard. This paragraph was amended to clarify that sources that become subject to a standard after a case-by-case MACT under 112(j) may keep requirements under 112(j) instead of incorporating the requirements of the MACT if 112(j) is equivalent to the MACT.

¹ 112(d) - Emission Standards; 112(h) - Work Practice Standards; 112(j) - Equivalent Emission Limitation by Permit ("MACT Hammer")

Table 2. Significant Changes to Section 63.2 [Definitions] of Subpart A, General Provisions

Terms for which definitions are ...	Definitions
Revised	<ul style="list-style-type: none"> • Affected source • Commenced • Construction • Effective date • Equivalent emission limitation • Federally enforceable • Malfunction • New source • Reconstruction • Relevant standard • Shutdown • Startup
Added	<ul style="list-style-type: none"> • Monitoring • New affected source • Working day

Table 3. Significant Changes to Section 63.4 [Prohibited Activities] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.4(a)(1)	Extension of compliance or exemption from compliance	Revision	A source that's complying with a compliance extension or operating with an exemption from compliance is <u>not</u> considered to be in violation of requirements. Under the original GP, a facility was <u>allowed to operate</u> "in violation of the requirements" of Part 63, but only under an extension of compliance or exemption from compliance.
63.4(c)	Fragmentation and phasing of reconstruction activities	New paragraph	In the amended GP, the subject of fragmentation is moved out from under the circumvention subsection to its own subsection, and the subject of phasing of reconstruction activities is added. The new paragraph defines fragmentation more clearly (for example, a change in ownership to divide it among various owners for the purposes of avoiding the definition of reconstruction) and describes phasing of reconstruction activities (a division of reconstruction into smaller parts for the purpose of avoiding the definition of reconstruction). According to the new paragraph, neither fragmentation nor phasing of reconstruction activities is an accepted way of avoiding applicability of requirements for new sources.

Table 4. Significant Changes to Section 63.5 [Reconstruction] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.5(a)(1)	Commencing construction/reconstruction prior to promulgation of relevant standard but starting up on or after that date	Revision	Under the amended GP, a source commencing construction/reconstruction prior to promulgation date is not required to submit an application for approval of construction/reconstruction, regardless of its startup date. Under the original GP [63.5(d)(1)(i)], an application for approval of construction/reconstruction was required if a source commenced construction/reconstruction <u>prior</u> to promulgation of relevant standard but did not have initial <u>startup</u> until on or after promulgation.
63.5(d)(1)(i)	Submitting application for approval of construction/reconstruction before commencing construction/reconstruction	Revision	Application for approval of construction/reconstruction must be submitted as soon as practicable before the <u>actual</u> construction/reconstruction begins. Under the original GP, the application deadline was as soon as practicable before the date construction or reconstruction is <u>planned</u> to commence.
63.5(d)(1)(ii)	Defining reconstruction	Addition to paragraph	The amended GP allow a definition of "reconstruction" other than that in §63.2, <u>if</u> the definition is included in the relevant standard. The original GP allowed only the definition in §63.2.

Table 4. Significant Changes to Section 63.5 of Subpart A, General Provisions (cont'd)

Citation of Change	Topic of Change	Type of Change	Description of Change
63.5(d)(2)	Required info in application for approval of construction	Revision	The amended GP allow certain required info in an application for construction to be more general: Instead of identifying each emission point for each HAP, now an application may identify each <u>type</u> of emission point for each <u>type</u> of HAP.

Table 5. Significant Changes to Section 63.6 [Compliance with Standards] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.6(e)(3)	Clarifications regarding monitoring equipment and safety	Revision	<p>The amended GP add clarification that:</p> <ul style="list-style-type: none"> • A source should properly operate and maintain associated <u>monitoring</u> equipment, as well as air pollution control equipment. • Equipment shall be operated and maintained in a manner consistent with <u>safety</u> as well as good air pollution control practices.
63.6(e)(3)(i)	SSM plan and title V permit	Revision	<p>This paragraph no longer requires that the Startup, Shutdown and Malfunction (SSM) plan be incorporated by reference into a source's title V permit. Instead, the title V permit must require the owner/operator to adopt a SSM plan that conforms to the GP, as specified in new paragraph §63.6(e)(ix).</p>
63.6(e)(3)(iv)	Reporting actions not consistent with SSM plan	Revision	<p>The owner/operator only has to report actions taken that were not consistent with procedures specified in the source's SSM plan <u>if the source exceeds the relevant emission standard</u>. The original GP required reporting of any action that was not consistent with procedures specified in the SSM plan, whether or not the action resulted in an exceedance.</p>
63.6(e)(3)(v)	How long to keep the SSM available	Revision	<p>According to the amended GP, the most recent SSM plan must be kept for <u>5 years beyond</u> the life of the affected source, or <u>5 years beyond</u> the date on which the affected source is no longer subject to Part 63 provisions. In addition, the amended GP requires, when a SSM plan is superseded, the owner/operator must keep available each previous version until 5 years after that version was superseded. The original GP only required keeping available the SSM plan for the life of the affected source or until the affected source was no longer subject to Part 63 provisions.</p>

Table 5. Significant Changes to Section 63.6 of Subpart A, General Provisions (cont'd)

Citation of Change	Topic of Change	Type of Change	Description of Change
63.6(e)(3)(viii)	Revising SSM plan	Additions to paragraph	Generally, owner/operator may periodically revise the SSM plan, such as to reflect changes in equipment or procedures at the affected source. The GP amendments require that such revisions must be reported in the semiannual report required by §63.10(d)(5). Under the GP amendments, if owner/operator makes revision that alters scope of activities at source or otherwise modifies applicability of any emission limit, work practice requirement, or other requirement in a Part 63 standard, then the revised SSM plan won't take effect until after owner/operator has provided written notice describing revision to permitting authority.
63.6(e)(3)(ix)	SSM plan and title V permit	New paragraph	The title V permit for a source subject to a relevant standard under Part 63 will require that a SSM plan be adopted that conforms to Part 63 provisions. The GP amendments clarify that: (1) revisions to SSM plan made in accordance with Part 63 procedures don't constitute title V permit revisions, and (2) procedures specified by a SSM plan don't fall within the permit shield provision of section 504(f) of the Act.
63.6(f)(1)	Emission points not affected by a SSM event must comply with nonopacity emission standards	Addition to paragraph	The GP amendments clarify that if startup, shutdown, or malfunction of one portion of an affected source doesn't affect the ability of particular emission points within other portions of the affected source to comply with the nonopacity emission standards of a Part 63 standard, then those emission points are still required to comply with the nonopacity emission standards and other applicable requirements.

Table 5. Significant Changes to Section 63.6 of Subpart A, General Provisions (cont'd)

Citation of Change	Topic of Change	Type of Change	Description of Change
63.6(h)(1)	Emission points not affected by a SSM event must comply with opacity and visible emission standards	Addition to paragraph	The GP amendments clarify that if startup, shutdown, or malfunction of one portion of an affected source doesn't affect the ability of particular emission points within other portions of the affected source to comply with the opacity and visible emission standards of a Part 63 standard, then those emission points are still required to comply with the opacity and visible emission standards and other applicable requirements.
63.6(i)(4)(i)(B)	Deadline for request for compliance extension	Revision	An owner/operator requesting a compliance extension generally has until <u>120 days before the compliance date</u> in which to make the request, regardless of whether the source includes emission points in an emissions average. The amended GP state that timely submittal of a nonfrivolous request for compliance extension will stay the effect of the relevant standard for the emission points in question until the request is granted or denied. Under the original GP, the owner/operator had to make the request for extension at least 12 months before the affected source's compliance date (18 months, if source includes emission points in an emissions average).
63.6(i)(4)(i)(C)	Compliance extension due to circumstances beyond reasonable control	New paragraph	Under the amended GP, an owner/operator can submit a compliance extension request up to the applicable compliance date of the relevant standard if a need arises due to circumstances beyond the reasonable control of the owner/operator. The request must include a justification. The timely submittal of a nonfrivolous request for compliance extension will stay the effect of the relevant standard for the emission points in question until the request is granted or denied.

Table 5. Significant Changes to Section 63.6 of Subpart A, General Provisions (cont'd)

Citation of Change	Topic of Change	Type of Change	Description of Change
63.6(i)(4)(ii)	Compliance extension and residual risk	Revision	An existing source may be granted an extension of compliance with a standard established pursuant to section 112(f) if additional time is needed to install controls. The amended GP allows an owner/operator <u>90 days</u> after the standard's effective date to request a compliance extension. Under the original GP, owner/operator was allowed only 15 days.
63.6(i)(6)(i)	Required info in request for compliance extension	Revision	The minimum required info in a request for an extension of compliance through a source's title V permit is reduced under the amended GP.
63.6(i)(14)	Termination of a compliance extension	Addition to paragraph	The amended GP add detail on how the Administrator (or state) will handle termination of an extension of compliance at an earlier date than specified, if certain requirements are not met.

Table 6. Significant Changes to Section 63.7 [Performance Testing] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.7(a)(2)	Deadline for conducting performance test	Revision	Under the amended GP, the deadline for conducting performance tests is simplified to be within 180 days <u>of</u> the relevant standard's <u>compliance date</u> . The original GP provided differing deadlines for conducting performance tests. That is, under the original GP, the specified deadlines fell within 180 days <u>after</u> various dates, depending on: startup date; date upon which construction or reconstruction commenced; whether the source was subject to a standard pursuant to section 112(f); and whether the source had been given a compliance extension.
63.7(b)(2)	Notifying of change of performance test date	Revision	If owner/operator must change the performance test date after notifying the Administrator, he or she must notify the Administrator of the change "as soon as practicable and without delay," according to the amended GP. Under the original GP, the owner or operator had to notify the Administrator of the change not later than 5 days prior to the originally scheduled date.
63.7(c)(3)(ii) and (f)(3)	Conducting a performance test when Administrator has not approved/disapproved a proposed change to test method	Revision	An owner/operator may request to use an alternate test method [63.7(f)] or may now propose a <u>minor</u> change to a test method with the source's site-specific test plan [63.8(f)(4)(iv)]. If the Administrator fails to approve or disapprove the request or the site-specific test plan within 45 days of submission, the owner/operator may proceed to conduct the performance test with the alternative or changed test method.

Table 6. Significant Changes to Section 63.7 of Subpart A, General Provisions (cont'd)

Citation of Change	Topic of Change	Type of Change	Description of Change
63.7(e)(2)(i)	Minor changes in test method	Revision	The Administrator may approve minor changes in a test method's methodology in conjunction with approval of the site-specific test plan. The original GP did not specify that approval could occur in conjunction with approval of the plan.
63.7(f)(2)(i)	Notifying of intent to use alternative test method	Revision	An owner/operator's deadline for notifying the Administrator of intent to use an alternative test method is now simply 60 days before the performance test is scheduled to begin, whether or not the source is required to submit the site-specific test plan that must be developed pursuant to §63.7(c). Under the original GP, there was a separate deadline (the test plan submittal date), for those sources for which a site-specific test plan was submitted.
63.7(f)(2)(ii)	Using specific procedures of Method 301	Revision	The owner/operator may use <u>specific procedures</u> of Method 301 to validate an alternative test method, if use of those procedures is sufficient to validate the alternative test method. According to the original GP, the method was to be used in its entirety.

Table 7. Significant Changes to Section 63.8 [Monitoring] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.8 (throughout)	Monitoring procedures	Revision	In several places in the amended GP, the term "monitoring method" is changed to a more general "monitoring procedure." For example, the Administrator may now approve an alternative monitoring <u>procedure</u> . The change reflects that the Administrator may now approve either a method (including a minor, intermediate, or major change to a method) or a monitoring procedure that is in the rule but not in a method.
63.8(b)(2)(i)	CMS when emissions from two or more affected sources are combined	Revision	The amended GP allow either a separate CMS for each emission stream <u>or a single CMS for combined emission streams</u> , provided monitoring is adequate. The original GP required a separate CMS for each effluent (emission stream).
63.8(c)	Operation and maintenance requirements	Revision	Under the amended GP, requirements for operation and maintenance are stated more briefly, now pointing to the section 63.6(e) requirements for operating and maintaining CMS and for developing and implementing a written startup, shutdown, and malfunction plan for CMS.
63.8(c)(2)(ii)	Access to CMS readout	New paragraph	The amended GP add requirements that the CMS be installed in a way that ensures access to the CMS readout or other indication of operation.
63.8(c)(6)	CPMS requirements	Addition to paragraph	The amended GP add requirements specific to CPMS. For example, the CPMS must be checked daily.
63.8(f)(4)(i)	Deadline for application for approval of an alternative monitoring procedure	Revision	An application for approval of an alternative monitoring procedure must be submitted at least 60 days before the performance evaluation is scheduled to begin. In the original GP, there were additional limits on when the application must be submitted.

Table 7. Significant Changes to Section 63.8 of Subpart A, General Provisions (cont'd)

Citation of Change	Topic of Change	Type of Change	Description of Change
63.8(f)(4)(iv)	Minor change to monitoring procedure	New paragraph	The amended GP allow an owner/operator to make application for a minor change to a monitoring procedure in the affected source's site-specific performance evaluation plan.
63.8(g)(5)	Data included in averages	Addition to paragraph	For certain sources, data averages must include any data recorded during periods of monitor breakdown or malfunction. [This paragraph addition was made in the 2/12/99 amendments.]

Table 8. Significant Changes to Section 63.9 [Notification] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.9(b)(2)(iv)	Required info in initial notification	Revision	The original GP required information on operating design capacity and identification of each point of emission for each HAP. The amended GP do not require information on operating design capacity, and they require more general information regarding emission points and HAP (identification of the <u>types</u> of emission points and <u>types</u> of HAP emitted).
63.9(b)(4)	Notification of actual commencement of construction/reconstruction	Revision	For a new or reconstructed major source, notification of the <u>actual</u> commencement of construction/reconstruction is no longer required.
63.9(b)(4)	Notification of anticipated startup of source	Revision	For a new or reconstructed major source, notification of the anticipated date of startup of the source is no longer required. [This revision was made in the 2/12/99 amendments.]
63.9(b)(5)(ii)	Deadline for notifying of actual startup	Revision	For a new or reconstructed major source, the amended GP require notification of the actual date of startup within <u>15 calendar days after startup</u> , whether or not the owner or operator is required to make application for approval of construction/reconstruction (that is, whether or not the source is a major emitter). [63.9(b)(4)(v) and (5)(ii)]. Under the original GP, an owner or operator had 120 days if the source wasn't a major source [63.9(b)(3)].

Table 9. Significant Changes to Section 63.10 [Recordkeeping & Reporting] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.10(b)(2)	Records kept for monitoring equipment	Additions to paragraph	The amended GP clarify that records are to be kept for <u>monitoring</u> equipment as well as for air pollution control equipment.
63.10(b)(2)(vii)	Measurement records kept to demonstrate compliance	Additions to paragraph	The amended GP allow the owner/operator to retain less than all of the CEMS subhourly measurements under certain conditions. [These paragraph additions were made in the 2/12/99 amendments.]
63.10(b)(3)	When applicability determination is necessary	Revision	<p>The amended GP clarify the conditions under which a source's owner or operator must make an applicability determination by adding that the applicability determination is not necessary unless:</p> <ul style="list-style-type: none"> • The source has the potential to emit HAP that are regulated pursuant to section 112(d) or (f), • The source is in the source category regulated by the relevant standard, and • It would be because of a limit on potential to emit or an exclusion that such a source could be <u>not</u> subject to a relevant Part 63 standard. The amended GP also add that the record of an applicability determination must be signed by the person making the determination.
63.10(b)(3)	Applicability determination and title V permit	Revision	The amended GP add that the applicability determination recorded under paragraph 63.10(b)(3) does not create an obligation for a source's owner or operator to obtain a title V permit.

Table 10. Significant Changes to Section 63.11 [Control Devices] of Subpart A, General Provisions

Citation of Change	Topic of Change	Type of Change	Description of Change
63.11(a)	Applicability of this section is default	Revision	Under the amended GP, this section applies unless the NESHAP says it does not.