

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[FRL-7163-9]

RIN 2060-AJ34

**National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production**

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

**ACTION:** Proposed rule; amendments.

**SUMMARY:** On June 23, 1999, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for Pesticide Active Ingredient Production (40 CFR part 63, subpart MMM). On August 19, 20, and 23, 1999, petitions for judicial review of the June 1999 rule were filed in the U.S. Court of Appeals for the District of Columbia Circuit. This action is in response to issues raised by two of those petitioners—the American Crop Protection Association (ACPA) and the American Cyanamid Company (now BASF Corporation). In this action, EPA proposes amendments to the rule to address issues raised by petitioners and to correct inconsistencies that have been discovered since the rule was originally promulgated.

**DATES:** Comments. The EPA will accept comments regarding this proposal on or before May 10, 2002.

**ADDRESSES:** Comments. By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-95-20, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-95-20, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy of each

public comment be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**). Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION**.

*Docket.* Docket No. A-95-20 contains supporting information used in developing the NESHAP. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M-1500, Waterside Mall (ground floor) and may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday (except for Federal holidays).

**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.

**SUPPLEMENTARY INFORMATION:**

*Comments.* Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted either as an ASCII file to avoid the use of special characters and encryption problems or on disks in WordPerfect file format. All comments and data submitted in electronic form must note the docket number A-95-20. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Randy McDonald, c/o OAQPS Document Control Officer (C404-02), U.S. EPA, Research Triangle Park, NC 27709. The

EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

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

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

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

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry .....	Typically, 325199 and 325320.	Typically, 2869 and 2879 ..	<ul style="list-style-type: none"> <li>Producers of pesticide active ingredients that contain organic compounds that are used in herbicides, insecticides, or fungicides.</li> <li>Producers of any integral intermediate used in on-site production of an active ingredient used in an herbicide, insecticide, or fungicide.</li> </ul>

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the rule 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 § 63.1360 of the rule, as well as in today's

proposed amendments to the applicability sections. If you have questions regarding the applicability of these amendments to a particular entity, consult the person listed in the

preceding **FOR FURTHER INFORMATION CONTACT** section.

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

- I. Why are we proposing amendments to the rule?
- II. What amendments are we proposing?
  - A. Requirements for which the Petitioners Requested Clarification
  - B. Proposed Amendments Related to Petitioner's Issues
  - C. Other Amendments to Correct the Rule
- III. What are the administrative requirements for the proposed amendments?
  - A. Executive Order 12866, Regulatory Planning and Review
  - B. Executive Order 13132, Federalism
  - C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
  - D. Executive Order 13045, Protection of Children for Environmental Health Risks and Safety Risks
  - E. Unfunded Mandates Reform Act of 1995
  - F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
  - G. Paperwork Reduction Act
  - H. National Technology Transfer and Advancement Act
  - I. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

### **I. Why Are We Proposing Amendments to the Rule?**

On June 23, 1999, we promulgated NESHAP for Pesticide Active Ingredient Production as subpart MMM in 40 CFR part 63 (64 FR 33550). On August 19 and 20, 1999, the American Crop Protection Association and American Cyanamid Company (now BASF Corporation) filed petitions for judicial review of the promulgated Pesticide Active Ingredient (PAI) Production NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *ACPA v. EPA*, No. 99-1332, and *American Cyanamid Company v. EPA*, No. 99-1334 (Consolidated with *ACPA v. EPA*, No. 99-1332) (D.C. Cir.). The petitioners raised issues regarding the applicability of the rule, the alternative standard, alternatives to the standard for storage vessels, outlet concentration standards, procedures for calculating emissions averaging credits, initial compliance requirements for condensers, and performance testing over an entire batch cycle.

On January 18, 2002, ACPA and EPA signed a settlement agreement, which provides that EPA will propose amendments to the PAI NESHAP and include preamble discussion to clarify various issues raised by petitioners. Notice of this agreement was published in the **Federal Register** on February 4,

2002 pursuant to the requirements of CAA section 113(g). (67 FR 5116).

Today's proposed amendments address the issues raised by ACPA and BASF Corporation, and include additional corrections and clarifications to ensure that the rule is implemented as intended. Some of the proposed amendments provide new compliance options and other new provisions that would reduce the burden associated with demonstrating compliance. For example, vapor balancing is proposed as a compliance option for storage tanks in § 63.1362(c). We are proposing to eliminate the requirement to calculate uncontrolled emissions under certain circumstances if performance testing is conducted over the entire batch cycle. We are also proposing to allow compliance demonstrations based on either total organic compound (TOC) or total organic hazardous air pollutants.

### **II. What Amendments Are We Proposing?**

This section of the preamble describes the changes that we are proposing to make to subpart MMM. The following discussion is organized into three sections. The first section focuses on provisions for which the petitioners requested clarification. For some of these provisions we are proposing amendments; others do not require changes to the rule. The second section describes proposed amendments to address other issues raised by the petitioners. The third section consists of proposed technical corrections that we believe are necessary to ensure that the rule is implemented as intended, correct errors, and maintain consistency with other rules. We are soliciting comment on the specific revisions to the PAI Production rule that are described below and proposed today. We are not seeking comment on portions of the rule that we are not currently proposing to change.

#### *A. Requirements for Which the Petitioners Requested Clarification*

The petitioners requested clarification of six provisions: New source applicability; the concept of process unit groups; differences between the alternative standard and the outlet concentration standard; pollution prevention; initial compliance when using a condenser to control emissions; and the startup, shutdown, and malfunction requirements.

#### **1. New Source Applicability**

Subpart MMM as promulgated on June 23, 1999, specified that new source standards apply to two types of entities: An affected source for which

construction or reconstruction commenced after November 10, 1997; and any single PAI process unit that is not part of a PAI process unit group, for which construction commenced after November 10, 1997, and that has the potential to emit 10 tons per year (tpy) or more of any single HAP or 25 tpy or more of combined HAP. Petitioners requested clarification that modifications of existing process units to create a new or different PAI process unit do not trigger new source requirements.

New source requirements apply to PAI process units only if the equipment meets the definition of either "construction" or "reconstruction," and the construction or reconstruction commences after November 10, 1997. A PAI process unit is the processing equipment that is used to produce a PAI or integral intermediate, as well as associated storage tanks, piping to connect the processing equipment, and components such as valves, connectors, and pumps. Our intent is that "construction" applies only to PAI process units added at a site previously without an affected source, or the addition of a dedicated PAI process unit with potential to emit greater than 10 tpy of one HAP or 25 tpy of combined HAP at an affected source. To clarify our intent, we are proposing several changes to the rule, most of which involve definitions. We are proposing to revise the definitions of the terms "construction" and "reconstruction" and to add definitions for "reconfiguration," "dedicated PAI process unit," and "non-dedicated PAI process unit." We are also clarifying the new source applicability language in § 63.1360(b).

The original definition of the term "construction" indicated that it applied to an affected source or a PAI process unit. The definition also specified that addition of new equipment to an existing PAI process unit does not constitute construction. To clarify this term, we are proposing to provide additional statements specifying actions that do not constitute construction. These actions include the creation of non-dedicated PAI process units by reconfiguration of equipment or changes in the raw materials processed (at affected sources), and addition of new equipment to an affected source (provided the new equipment is not a dedicated PAI process unit with the potential to emit greater than the 10 or 25 tpy thresholds). We are also proposing to delete the exception in the original definition because it is redundant with the more comprehensive revised statements.

The definition of "reconstruction" in the June 23, 1999 NESHAP references the definition in § 63.2 of the General Provisions. We are proposing to revise this definition to be consistent with changes made for other rules, such as 40 CFR part 63, subpart GGG, by replacing the phrase "affected or previously unaffected stationary source" with the phrase "affected source or PAI process unit." This change makes it clear that the replacement of equipment meeting the capital cost criteria in the General Provisions applies to individual PAI process units with a potential to emit of 10 or 25 tpy as well as to the entire affected source.

A "dedicated PAI process unit" is defined as a process unit constructed from equipment that is fixed in place and designed and operated to produce only a single product or co-products. The equipment is not designed to be reconfigured or operated with different raw materials. "Non-dedicated PAI process units" are any PAI process units that are not dedicated PAI process units. "Reconfiguration" refers to changes in the arrangement or operation of non-dedicated equipment to create a different process unit (either PAI or non-PAI).

The final changes to clarify this issue involve the language in § 63.1360(b)(2). The intent has always been that the new source requirements apply to what we are now calling a "dedicated PAI process unit." Therefore, we are proposing to use this term in paragraph (b)(2) instead of the phrase "any single PAI process unit." We are also proposing to delete the current paragraph (b)(2)(i), which states that new source requirements apply only to PAI process units that are "not part of a process unit group." The provision in paragraph (b)(2)(i) could be misinterpreted to mean that you must develop process unit groups. This interpretation is incorrect because developing process unit groups is optional; you could elect to develop process unit groups if subpart MMM and other maximum achievable control technology (MACT) rules apply to the same processing equipment and you want to minimize the number of different requirements for the equipment with which you must comply. The purpose of the statement in paragraph (b)(2)(i) was to ensure that new source requirements are not applied to individual process units that we are now defining as "non-dedicated PAI process units." The proposed change to paragraph (b)(2), to specify that new source requirements apply to dedicated PAI process units, as

described above, serves the same purpose.

To illustrate how the new source requirements would be triggered, we have developed the following scenarios.

*Scenario:* I have an affected source on the effective date. Am I subject to new source requirements for a non-dedicated PAI process unit that I create after November 10, 1997, using equipment that was installed and operating before November 10, 1997?

*Response:* No, any non-dedicated PAI process unit you create solely from existing equipment is subject to existing source standards. It does not matter what type of product(s) you have produced in the past or whether you have ever produced the PAI before. To create a non-dedicated PAI process unit from existing equipment, you would either reconfigure the equipment or change the raw materials. The proposed change to the definition of "construction" clarifies that neither of these changes constitutes construction. In addition, because these changes do not include replacement of equipment, they also do not meet the definition of "reconstruction" in the General Provisions. Therefore, these changes do not satisfy the criteria in § 63.1360(b)(1). If you already have a PAI affected source as specified in § 63.1360(a), the newly created non-dedicated PAI process unit expands that affected source.

*Scenario:* If I have an affected source, am I subject to new source requirements for a non-dedicated PAI process unit that I create after November 10, 1997, using a mixture of new equipment and equipment installed and operating before November 10, 1997?

*Response:* No, if the amount of new equipment added does not constitute reconstruction. The revised definition of "construction" specifies that addition of equipment to an affected source does not constitute construction unless it is to construct a dedicated PAI process unit with the potential to emit greater than either the 10 or 25 tpy threshold. Therefore, the newly created non-dedicated PAI process unit becomes part of and expands the affected source, which is subject to existing source standards. Any non-dedicated PAI process units created in the future by reconfiguring this equipment are also subject to existing source standards for the reasons given in the discussion above.

*Scenario:* My facility was built and operating before November 10, 1997 with no PAI affected source. After November 10, 1997, I add non-dedicated equipment. Am I subject to new source

standards for any PAI process unit that I create from this equipment?

*Response:* Yes. The first PAI process unit (that uses, processes, or produces HAP) constitutes construction of an affected source. Because the construction commenced after November 10, 1997, the affected source is a new affected source in accordance with § 63.1360(b)(1). All PAI process units created in the future by reconfiguring the equipment, adding to the equipment, or by changing raw materials would also be subject to new source standards because they are process changes or additions to the applicable affected source, which in this case is a new affected source.

*Scenario:* My facility is a major source consisting of non-dedicated equipment that was built after April 10, 2002. Are all of my PAI process units subject to new source standards?

*Response:* Yes, for the same reasons discussed in the preceding example.

## 2. Process Unit Groups

Many different MACT rules may apply to the same multi-purpose equipment because many different process units may be created from this equipment, depending on how it is configured or the raw materials used. To minimize the compliance burden, the June 23, 1999, promulgated rule included an option based on "process unit groups" (PUG). A "process unit group" is a collection of processing equipment from which you create both non-dedicated PAI process units and non-dedicated process units for other types of products. The purpose and potential advantage of the PUG option is that, under certain conditions, it allows you to comply with a MACT rule that applies to a non-PAI process unit in the PUG, both when the equipment is configured as the non-PAI process unit and when it is configured as a PAI process unit. Typically, the applicable MACT rule is selected based on the primary product of the PUG. These provisions are specified in § 63.1360(h), and the term "process unit group" is defined in § 63.1361. Developing PUG is entirely optional.

Petitioners noted that the definition of "process unit group" in § 63.1361 differs from the description in the preamble to the promulgated rule, and they recommended that the rule be changed to match the preamble. They also requested that we clarify compliance procedures because the requirements in the promulgated rule are confusing, particularly with respect to different primary products, and in situations where future MACT rules may apply to the same equipment. In

this preamble we clarify our intent regarding how to comply under the PUG option, and we describe proposed changes to the definition of the term "process unit group" to make it consistent with previous descriptions. We are also proposing changes to § 63.1360(h) to clarify and simplify compliance with the PUG option.

The PUG option allows you to develop groups to accommodate your site-specific situation subject to the following constraints: (1) For equipment used to create a PAI process unit to be part of the group, some of the equipment must overlap with equipment in at least one other PAI process unit in the group, (2) for equipment used to create a non-PAI process unit to be part of the group, some of the equipment must overlap with at least one PAI process unit in the group, and (3) a PAI process unit may not be part of more than one process unit group. Thus, it is possible that all of the non-dedicated equipment at a facility could be part of just one process unit group. On the other hand, if there are distinct processing areas within the plant, and there is no overlap in the PAI products produced in those areas, and no equipment is shared between the areas, then there would have to be more than one PUG.

To clarify the rule, we are proposing to specifically include the above constraints in § 63.1360(h)(1). In addition, we are proposing that you initially create the group by starting with one non-dedicated PAI process unit that is operating on December 23, 2003 (or later) and then include any other non-dedicated PAI process units and non-dedicated non-PAI process units that you expect to be operated in the subsequent 5 years, subject to the constraints listed above. In the future, you can include new process units in a PUG if any of the equipment in the new process unit overlaps equipment in any of the process units already in the PUG. A record of process units added to a PUG must be maintained and included in Periodic reports.

Also, § 63.1360(h)(2) and (3) specify two possible compliance options for the PAI process units in a PUG. The first option is that you may comply with the NESHAP for Pharmaceuticals Production (40 CFR part 63, subpart GGG) for each PAI process unit in the PUG if there is at least one pharmaceutical manufacturing process unit in the group. Note, however, that § 63.1360(h)(2)(i) through (iii) specify three provisions in subpart GGG that do not apply.

The second option involves first determining the primary product of the

process unit group. We are proposing that the primary product be the category of products (e.g., PAI, pharmaceutical product, thermoplastic resin, etc.) that is expected to be produced for the greatest operating time (or have the greatest production on a mass basis) in the 5 years after the group is created, based on the process units initially in the group. You must redetermine the primary product if you do not intend to produce any of the product in the future, or you have not produced any of it for 5 years and include results of the redetermination in the next Periodic report.

If the primary product is a material that was subject to another MACT standard on June 23, 1999, or it is (or was) subject to another MACT standard upon startup of the first process unit(s) in the PUG, whichever is later, then you may comply with the subpart for that material for each PAI process unit in the PUG. Although other subparts have more stringent process vent emission limits than subpart MMM, the applicability cutoffs are often higher than the cutoffs specified in the definition of "Group 1 process vents" in § 63.1361 of subpart MMM. Therefore, we are proposing to add a provision in § 63.1360(h)(3) specifying that you must comply with the control requirements of the subpart that applies to the primary product of the PUG for all PAI process units in the PUG that have Group 1 process vents, regardless of the applicability cutoffs in the other subpart.

If the primary product is a material that is not yet subject to a MACT standard, then you must comply with the PAI rule for all PAI process units in the PUG. If in the future, a rule is developed that applies to the primary product (e.g., the Miscellaneous Organic national emission standards for hazardous air pollutants (HON)), that rule will have to specify any alternative to this provision. Note that the primary product is the type of product that is subject to a MACT standard (e.g., PAI, pharmaceutical, MON chemicals, etc.), not an individual compound or material. For example, if you make five PAI and one specialty chemical, you sum the operating hours (or mass produced, if the operating hours for different types of products are equal) for all five PAI to determine if PAI are the primary product.

Another proposed change clarifies what constitutes reconstruction for PAI process units in a process unit group and the applicable requirements. A new paragraph (h)(4) to § 63.1360, specifies that the requirements for new and reconstructed sources under the

alternative subpart apply to all of the PAI process units in the process unit group if, and only if, the affected source under the alternative subpart meets the requirements for reconstruction.

Finally, we are also proposing to revise the definition of "process unit group" to be consistent with the above discussion. The current definition limits equipment in a group to equipment that has been or could be part of a PAI process unit. This restriction could limit a PUG to only PAI process units, which effectively negates the potential benefits of creating a PUG. A PUG has to include complete process units (not just some of the equipment) for the production of products other than PAI for it to minimize the impact of overlapping MACT standards. Therefore, we are proposing to replace the second sentence in the definition of "process unit group" with a statement that a PUG "consists of all equipment used in one or more PAI process units, and it may include all of the equipment used in other process units that have equipment that overlaps with the PAI process unit(s)."

### 3. Comparison of Alternative Standard and Outlet Concentration Standard

For storage tanks and process vents, the rule provides two compliance options that are based on an outlet concentration. One option (specified in § 63.1362(b)(2)(iv)(A), (b)(3)(ii), (b)(4)(ii)(A), (b)(5)(ii), (b)(5)(iii) for process vents, and § 63.1362(c)(2)(iv)(B) for storage tanks) is simply referred to as the outlet concentration option. The other option is the alternative standard (specified in § 63.1362(b)(6) and (c)(4)). The differences between these options include the initial compliance procedures, monitoring techniques, and the way violations are assessed.

Initial and ongoing compliance procedures under the outlet concentration option are similar to those for the percent reduction option. For example, you demonstrate initial compliance by conducting a performance test (the design evaluation option is not allowed for demonstrating compliance with the outlet concentration), you establish monitoring levels for control device operating parameters during the initial test, and you demonstrate ongoing compliance by not exceeding these levels. Because the test must be conducted under the most challenging conditions that the control device will experience while being used to control PAI emissions, you also need to develop an emission profile to identify the most challenging conditions. This requires calculating the uncontrolled emissions for all emission

episodes that are routed to the control device.

Compliance procedures are much simpler for the alternative standard. This option requires the use of continuous emission monitoring systems (CEMS) to demonstrate ongoing compliance at all times beginning on the compliance date. The only initial requirement is to conduct a performance evaluation in accordance with the General Provisions. There is no need to calculate uncontrolled emissions or to develop an emissions profile. An ongoing requirement is to conduct a quality control program in accordance with § 63.8(d) of the General Provisions, which is likely to be more involved than the annual calibration requirements for parameter monitoring instruments.

Exceedances under the outlet concentration option are considered exceedances of the operating limit, whereas exceedances under the alternative standard are considered exceedances of the emission limit. In addition, compliance under the outlet concentration option is determined for each emission point or process, whereas compliance under the alternative standard is determined at the control device.

#### 4. Pollution Prevention

As specified in § 63.1362(g), the pollution prevention alternative requires either an 85 percent or 50 percent reduction in the "HAP factor" (i.e., the HAP consumption per unit of production). In addition, if the HAP are also volatile organic compounds (VOC), an equivalent reduction (on a mass basis) is required in the VOC factor. This requirement to reduce the VOC factor differs from the proposed rule (62 FR 60566, November 10, 1997), which would have required only that the VOC factor not increase. The petitioners want us to reinstate the proposed language.

In the preamble to the promulgated rule (64 FR 33576, June 23, 1999), we provided two reasons for changing the VOC factor requirements. One reason is that our intent with the pollution prevention alternative is to recognize those processes that reduce solvent usage. The proposed rule would have allowed VOC substitution for the HAP, without any reduction in total solvent usage. Merely substituting one pollutant for another is inconsistent with the concept of pollution prevention. A second reason for making the change is that the proposed language gives an unfair advantage to affected sources using HAP solvents that are also VOC as opposed to using HAP solvents that are not VOC. As proposed, an affected source using HAP solvents that are also

VOC could switch to a low-VOC solvent and possibly comply with the pollution prevention alternative, but an affected source using HAP solvents that are not VOC would be unable to comply with the pollution prevention alternative after making such a switch. We continue to believe in the validity of the rationale for requiring a reduction in the VOC factor if the HAP are also VOC. Therefore, we are not proposing changes in the pollution prevention alternative.

#### 5. Initial Compliance for Condensers

Based on a review of the project database and the public comments on the proposed rule, it appears that this issue is focused on compliance for storage tanks. We are not aware of any ambient process vent emission streams that are (or likely would be) controlled with a condenser, but several storage tanks are controlled with condensers. We have also assumed the petitioner is asking for clarification of compliance for the percent reduction option because we expect that using a condenser to reduce emissions to less than 50 parts per million by volume (ppmv) is unlikely for a stored material with a maximum true vapor pressure greater than 3.45 kilo Pascals (kPa) (i.e., the Group 1 storage tank cutoff).

Section 63.1365(d)(1) specifies how to demonstrate initial compliance with the percent reduction emission limitation for storage tanks. You may conduct either a performance test or a design evaluation to demonstrate that the condenser achieves at least a 95 percent reduction when the tank is filled at the reasonably expected maximum filling rate. For the performance test option, you use an applicable test method to measure the inlet and outlet mass of HAP and use the results to calculate the percent reduction. As specified in § 63.1366(b)(1)(iii) and (b)(3), you must measure the outlet gas temperature during the test to establish the maximum level for use in demonstrating ongoing compliance. Alternatively, you are not required to conduct a performance test while filling the tank if you conducted a performance test for the same condenser to demonstrate compliance with process vent emission limits, and the demonstrated reduction was at least 95 percent.

For the design evaluation option, you must prepare documentation to demonstrate that the required reduction is achieved. The documentation requirements are specified in § 63.1365(a)(1)(iii). However, we are proposing some changes to that paragraph to clarify the requirements. The current language requires you to establish the "design outlet organic HAP

compound concentration level," the "design average temperature of the condenser exhaust," and the "design average temperatures of the coolant fluid at the condenser inlet and outlet." Our proposed changes would require you to establish the temperature of the condenser exhaust vent stream and the corresponding organic HAP compound concentration level for which the required reduction is achieved. Knowledge of the coolant temperatures may help you confirm that the outlet vent stream temperature is achievable, but it is not needed to establish that required temperature; therefore, we are proposing to delete that requirement. We are also proposing to delete the requirement to measure the outlet gas stream temperature for use in establishing the outlet concentration. Measurement of the temperature is an essential part of demonstrating continuous compliance with the temperature limit established in the design evaluation, but it serves no purpose in establishing the required temperature limit.

The rule does not specify the ambient temperature at which the performance test or design evaluation must be conducted. This is consistent with other rules that specify compliance procedures for condensers used to control storage tank emissions. In a design evaluation, standard procedure is to use some representative or median summer temperature. Thus, the design evaluation will show that the required reduction is achieved for the maximum uncontrolled emission rate. Similarly, conducting a performance test on a warm summer day will demonstrate that the required reduction is achieved for the maximum uncontrolled emission rate. If you elect to conduct a test on a cool day, your monitoring temperature limit will be set based on those conditions, which also ensures that compliance will be met or exceeded on the warmest days with higher uncontrolled emissions.

#### 6. Startup, Shutdown, and Malfunction Requirements

During discussions, petitioners expressed reservations regarding the flexibility of the startup, shutdown, and malfunction provisions, and they requested clarification of these provisions.

Startup, shutdown, and malfunction provisions were developed to accommodate the fact that the emissions characteristics of an affected unit can be substantially different during periods of startup, shutdown, or malfunction than during normal operations. As specified in § 63.1360(e), affected sources are not

required to meet the specified MACT emission limitations during periods of startup, shutdown, or malfunction. Instead, affected sources must develop (and operate in accordance with) a startup, shutdown, and malfunction plan, which would require sources to operate "in a manner consistent with good air pollution control practices for minimizing emissions." For instance, this general duty clause does not require an affected source to install a duplicate control system to meet the emissions limitations during periods of malfunction of the primary control system or during periods of process upset when operation could damage the control system (i.e., the only times when a control system may be shutdown, as specified in § 63.1360(e)(3)). It may be feasible in some of these cases, however, that a source could reroute emissions to another control device already in existence at the facility, which would also constitute good engineering practices.

#### *B. Proposed Amendments Related to Petitioners Issues*

After reviewing issues raised by the petitioners, we are proposing amendments to clarify applicability requirements; add and modify compliance options, initial compliance requirements, and monitoring requirements; and clarify definitions. We are also correcting several referencing errors.

##### 1. Storage Vessel Applicability

Section 63.1360(f)(3) of the rule as promulgated on June 23, 1999, specified that a storage tank in a tank farm is part of an affected source only if the greatest input to or output from the tank is associated with PAI processes and there is no intervening storage tank between the tank farm and the process. We are proposing changes to this section that would allow owners and operators the option to include storage vessels in the affected source even if there is an intervening tank. We are not, however, changing the requirement that the primary input or output must be associated with PAI processes.

Without this amendment, the excluded tanks in the tank farm would be subject to the Organic Liquids (non-gasoline) Distribution MACT rule, currently under development. We anticipate that the proposed requirements for that rule will be similar to the requirements in the hazardous organic NESHAP (HON) (§ 63.119(a) of subpart G), which has less stringent capacity and maximum true vapor pressure cutoffs than § 63.1362(c) of subpart MMM.

Notwithstanding the stringency of these standards, sources may choose this option in order to reduce the burden associated with complying with multiple standards.

##### 2. Process Unit Groups

We are proposing to redesignate § 63.1360(h)(1)(i) and (ii) as § 63.1360(h)(2)(i) and (ii) and then make four technical corrections to the language. These paragraphs would specify exceptions to the provisions in the Pharmaceuticals NESHAP, subpart GGG. Because the Pharmaceuticals NESHAP was amended on August 29, 2000 (65 FR 52588), the changes described below are necessary to ensure the PAI NESHAP are consistent with the amended subpart GGG.

The first proposed change is to § 63.1360(h)(2)(i). Because the requirements in § 63.1254 were rearranged when subpart GGG was amended, we are proposing to replace the now incorrect reference to § 63.1254(a)(1) in § 63.1360(h)(2)(i) with the correct reference to § 63.1254(a)(2).

The other three proposed technical corrections are in § 63.1360(h)(2)(ii). In the rule as promulgated on June 23, 1999, this paragraph specifies that, for the purposes of subpart MMM, the date June 23, 1999 shall apply instead of the date April 2, 1997 in § 63.1254(a)(iii) of subpart GGG. Our first proposed change is to replace the incorrect reference to § 63.1254(a)(iii) with the correct reference to § 63.1254(a)(3)(ii). Because the grandfathering provisions in § 63.1254(a)(3)(ii) apply to control devices installed before the original proposal date of subpart GGG (i.e., April 2, 1997), our second proposed change is to replace "June 23, 1999" with "November 10, 1997" to be consistent with the intent in subpart GGG (i.e., this change replaces the promulgation date of subpart MMM with the proposal date). Section 63.1254(a)(3)(ii) also contains provisions for replacing or upgrading control devices before April 2, 2007 (i.e., 10 years after the proposal date). Therefore, our third proposed change is to specify that when this date applies in § 63.1254(a)(3)(ii), the date of November 10, 2007 shall apply for the purposes of subpart MMM.

##### 3. Vapor Balancing for Storage Vessels

We are proposing to allow vapor balancing in conjunction with the use of a pressure setting to comply with the storage vessel requirements. The vapor balancing option would also require that displaced vapors from the tank trucks and railcars be controlled at the reloading or cleaning facility to at least 95 percent or be vapor balanced.

In general, a pressure setting of at least 2.5 pounds per square inch gage (psig) was determined to eliminate breathing losses from storage vessels that are typically found in this industry. As a means of demonstrating continuous compliance with the pressure setting requirement, the proposed provisions would require the owner or operator 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 and railcars would be required to have current certification in accordance with U.S. Department of Transportation pressure test requirements, and the owner or operator would be required to keep a record of the certifications. All of the vapor balancing provisions are consistent with subpart GGG.

##### 4. Planned Routine Maintenance of Control Devices for Storage Vessels

Currently, the rule specifies that an owner or operator is exempt from the standards for storage tanks during periods of planned routine maintenance of a control device for up to 240 hours per year (hr/yr). We are proposing to allow an owner or operator to submit an application to the Administrator requesting an extension of the time limit to a total of 360 hr/yr. The application would have to explain why the extension is needed, indicate that no material will be added to the storage vessel between the time the 240 hour limit is exceeded and the control device is again operational, and be submitted at least 60 days before the 240 hour limit will be exceeded. In the event that planned routine maintenance for a particular control device cannot be completed in less than 240 hr/yr, this option would reduce the burden on an owner or operator who would otherwise be required to take the storage vessel out of service. Allowing the time extension may also result in less emissions than emptying and degassing the storage vessel.

##### 5. The Alternative Standard

We are proposing to raise the concentration limit for HAP emissions at the outlet of a non-combustion device from 20 ppmv to 50 ppmv. The proposed change is a result of reconsideration of the process vent stream data used in the MACT floor analysis and consideration of the limitations and advantages of non-combustion control technologies. The

definition of process vent stream from an organic chemical manufacturing process was developed in the HON where the minimum HAP concentration is 50 ppmv. The same definition of vent stream is used in subpart MMM. In the MACT floor analysis, we included only process vents with HAP concentrations of 50 ppmv or greater, and where data were available to calculate HAP concentrations in process vent emission streams, we excluded those vents with HAP concentrations less than 50 ppmv from the MACT floor analysis.

We selected 20 ppmv for the alternative standard because ample data suggest this is an achievable level for properly operated combustion devices. However, we do not have data to demonstrate that 20 ppmv is also achievable for non-combustion devices. Raising the concentration limit for non-combustion devices to 50 ppmv would make the alternative standard consistent with the data used in establishing the MACT floor and allow the possible use of such control technology as carbon adsorption, oil scrubbers, and biofiltration. These control technologies have much less impact on the environment than thermal oxidation and have potential for recovery and reuse of HAP. In most cases, it is likely to achieve much greater control because the HAP concentration in process vent emissions at the surveyed facilities is rarely less than 500 ppmv. Finally, we want to encourage facilities to comply with the MACT standard by implementing the alternative standard because we believe CEMS are the best way to demonstrate ongoing compliance.

#### 6. Outlet Concentration Emission Limits

We are proposing changes to make the outlet concentration emission limit option more flexible for process vents, storage vessels, and wastewater. Currently, the rule specifies (in § 63.1362(b) and (c)) that organic HAP emissions be reduced to concentrations less than or equal to 20 ppmv as TOC. Similarly, control devices used to reduce emissions from waste management units must achieve an outlet TOC concentration of 20 ppmv because § 63.1362(d)(12) specifies that the total organic HAP limit in § 63.139 of the HON does not apply. To provide greater flexibility, we are proposing to change this option so that an affected source may reduce outlet concentrations to 20 ppmv or less of either TOC or total organic HAP.

For all of the emission points, the MACT floors (and regulatory alternatives above the floor) are based on the percent reduction of organic

HAP. The outlet concentration format is also provided because we realize that there is a practical limit of control for emission streams with relatively low HAP concentrations. The 20 ppmv as TOC option was specified in the June 23, 1999 promulgated rule because it is the limit of control for most control devices, and it is the most stringent concentration limit. For most streams, however, control to an outlet concentration of 20 ppmv as HAP would also be equivalent to a reduction far greater than the required 90 or 95 percent reductions, depending on the emission point. Based on data from surveyed facilities, very few process vents have HAP concentrations between 50 ppmv and 200 ppmv (i.e., between the proposed cutoff in the definition of a process vent and the minimum inlet concentration needed to achieve a 90 percent reduction if the outlet is 20 ppmv as HAP). Plus, for Group 1 storage vessels, the maximum true vapor pressure cutoffs of 16.5 kPa for existing sources and 3.45 kPa for new sources (compared to standard atmospheric pressure of 101.3 kPa) means the minimum uncontrolled HAP concentrations that must be controlled are well above the levels needed to achieve at least 95 percent control when the outlet is 20 ppmv as HAP. Therefore, we believe that control will continue to be at least equivalent to the MACT floor after implementing the proposed change.

We are also proposing a related change in § 63.1365(a)(2). This paragraph specifies procedures for calculating emissions concentrations as part of an initial compliance determination. The third sentence in this paragraph currently states that “if compliance with the percent reduction format of the standard is being determined based on total organic HAP, the owner or operator shall compute total organic HAP \* \* \*” We are proposing to delete the reference to the “percent reduction format of the standard” in this sentence to be consistent with the proposed change described above that would also allow compliance with the outlet concentration standard to be demonstrated based on total organic HAP.

#### 7. Wastewater Standards

We are proposing several technical corrections to the wastewater standards. According to the rule promulgated on June 23, 1999, the referenced provisions of the HON specify that only Method 18 of 40 CFR part 60 may be used to demonstrate compliance with the standards for control devices used to

control emissions vented from waste management units. For other emission streams, however, the promulgated rule allows compliance to be demonstrated using Method 25 or Method 25A of 40 CFR part 60, under applicable conditions for the method. To correct this unintended disparity, we are proposing to specify in § 63.1362(d)(12) that an owner or operator may elect to use Method 25 or Method 25A as an alternative to Method 18 when Method 18 is specified in §§ 63.139(c)(1)(ii) and 63.145(i)(2). We are also proposing to add a similar statement in § 63.1365(e), which specifies the elements of § 63.145 of the HON which are to be used to demonstrate initial compliance with the wastewater standards.

Section 63.139(c)(1)(ii) of the cross-referenced HON wastewater provisions specifies that outlet concentrations from combustion devices are to be corrected to 3 percent oxygen at all times. Section 63.1362(d)(13) of subpart MMM as promulgated on June 23, 1999 specifies that the correction is required only if supplemental gases are combined with affected streams. This statement was included in the rule to ensure that the cross-referenced requirements for wastewater emissions do not conflict with the requirements specified in § 63.1365(a)(7). However, to further clarify this point, we are proposing to add a statement to § 63.1362(d)(13) specifying that the procedures to determine the percent oxygen correction in § 63.1365(a)(7) apply instead of the procedures in § 63.145(i)(6).

In the rule as promulgated on June 23, 1999, § 63.1362(d)(14) required covered waste management units or a determination that less than 5 percent of the HAP are emitted from the units for all wastewater sent offsite for biological treatment. We are proposing to specify that these restrictions apply only to Group 1 wastewater to be consistent with the applicability requirements in § 63.132(g) of the HON.

The requirements for wastewater tanks in § 63.1362(d), which cross-reference the requirements in § 63.133 of the HON, differ depending on the maximum true vapor pressure of the HAP in the stored wastewater. The vapor pressure cutoffs are specified in Table 10 to subpart G of part 63. Since all of the other wastewater provisions apply only to the HAP listed in Table 9 to subpart G of part 63, we are proposing to specify in § 63.1362(d)(15) that the vapor pressure cutoffs in Table 10 to subpart G of part 63 also apply only to the HAP in Table 9 of subpart G of part 63 for the purposes of subpart MMM.

Section 63.1365(b)(8) requires wastewater analyses to be conducted in accordance with the test methods and procedures specified in § 63.144 of the HON. We are proposing to add a statement to this paragraph specifying that an owner or operator may also use Method 1666 or Method 1671 of 40 CFR part 136, appendix A, without performing the validation procedures specified in § 63.144(b)(5)(iii). The two new methods can be used to measure certain analytes (e.g., methanol, acetonitrile, and n-hexane) that cannot be measured using the other methods in 40 CFR part 136. They also have the same quality assurance/quality control requirements as the earlier methods; in particular, sampling must be conducted so as to minimize loss of volatile compounds. These two methods were added to 40 CFR part 136 when the revisions to the pharmaceutical effluent limitation guidelines and standards were promulgated in September 1998. They were also added to the list of acceptable methods for wastewater analyses in the amended subpart GGG of 40 CFR part 63 (66 FR 40134, August 2, 2001).

#### 8. Emissions Averaging

We are proposing changes to § 63.1362(h)(2) to clarify the procedures for calculating emissions averaging credits and make them more consistent with the HON. Section 63.150(d)(2) of the HON specifies that Group 1 emission points that are controlled with a “reference control technology” may not be used to calculate emissions averaging credits unless the reference control technology has been approved for use in a different manner, and a higher nominal efficiency has been assigned according to the procedures in § 63.150(i). Our intent was to specify equivalent requirements in § 63.1362(h)(2) of subpart MMM. We did not simply reference all of § 63.150 because we did not define “reference control technologies” for the PAI standards.

Section 63.1362(h)(2) currently specifies that certain emission streams may not be used for calculating emissions averaging credits unless a nominal efficiency has been assigned that exceeds the applicable percent reduction; this section also lists the relevant sections of the rule that specify the required percent reductions for process vents, storage tanks, and wastewater treatment units. In addition, § 63.1362(h)(2)(i) through (iii) specifies the types of controls subject to this provision; all of them are equipment or operational requirements that are alternatives to a percent reduction

requirement (i.e., storage tanks controlled with a floating roof; emission streams vented to a flare; waste management units that are controlled using devices and techniques such as covers, plugs, water seals, floating roofs, and submerged fill; and wastewater treated using a design steam stripper).

After reexamining the emissions averaging provisions, we determined that several changes are needed to maintain equivalence with the HON. Two of our proposed changes are to the introductory text in § 63.1362(h)(2). In the first sentence, we are proposing a change to clarify that all of the restrictions on the calculation of credits in this paragraph apply only to Group 1 emission points. We are also proposing to add a requirement that the nominal efficiency for control devices used to control emissions vented from waste management units must exceed the 95 percent reduction requirement in § 63.139(c).

We are also proposing two changes to § 63.1362(h)(2)(iii). This paragraph specifies that wastewater may not be used to calculate emissions averaging credits if it is controlled either as specified in §§ 63.133 through 63.137 or with a design steam stripper, unless a higher nominal efficiency is assigned. This language inadvertently bars an owner or operator from calculating emissions averaging credits for all wastewater streams because the equations and procedures specified in § 63.150(h)(5) for calculating credits require the use of emission suppression controls in §§ 63.133 through 63.137 (i.e., § 63.1365(h)(2)(iii) prohibits a wastewater stream from being used to calculate emissions averaging credits if it is managed according to §§ 63.133 through 63.137, but § 63.150 requires management according to §§ 63.133 through 63.137 in order to calculate credits). To make the limitation on calculating credits consistent with the HON, we are proposing to change § 63.1365(h)(2)(iii) so that only wastewater streams that are both managed according to §§ 63.133 through 63.137 and treated using a design steam stripper may not be used to calculate emissions averaging credits. This way both conditions must be met (rather than either one), which is consistent with the reference control technology concept in the HON.

After making the changes described above for the settlement agreement, we realized that § 63.1365(h)(2) still differs from the HON in two ways. First, § 63.1365(h)(2) does not mention the requirement that the control technology must be approved for use in a manner that differs from the reference control

technology. Therefore, we are considering adding language to § 63.1365(h)(2) to require that the control technology must be approved for use in a manner different from that otherwise required by the rule. Second, the proposed change to § 63.1365(h)(2)(iii) as described above addresses two components from the HON’s definition of reference control technology for wastewater, but it does not address the requirement that emissions from waste management units, including the design steam stripper, be controlled by 95 percent. Without this component in § 63.1365(h)(2)(iii), no wastewater stream treated in a design steam stripper could be used to calculate credits. Therefore, we are considering adding a requirement that emissions from the waste management units, including the design steam stripper, must be controlled in a device that meets the requirements specified in § 63.139(c). We are requesting comment on the need for these two additional changes and suggestions for the best way to incorporate them.

We are proposing changes to make § 63.1365(h)(3) consistent with other proposed changes. As promulgated, § 63.1365(h)(3) specifies that process vent and storage vessel emissions controlled to 20 ppmv may not be used in any emissions averaging group. Since we are proposing to change the concentration limit to 50 ppmv for non-combustion devices used to comply with the alternative standard (see section II.B.5 of this preamble), we are also proposing to exclude process vent and storage vessel emission streams controlled to 50 ppmv from use in emissions averaging. To enhance understanding of the provision, we are also adding references to the applicable sections of the rule that specify the various concentration standards.

Finally, we are proposing to revise § 63.1362(h)(4) to clarify the requirements for Group 2 wastewater streams. As noted above, the procedures and equations in § 63.150 of the HON allow credits to be calculated for Group 2 wastewater streams only if they are managed in accordance with §§ 63.133 through 63.137. We are proposing to explicitly state this requirement in § 63.1362(h)(4) so that a reader does not need to examine all of the details in § 63.150 to reach the same conclusion.

#### 9. Initial Compliance for Condensers

While reviewing the rule, we also determined that additional changes would clarify the initial compliance requirements for condensers. Section 63.1362(b)(12) specifies that the testing

requirements for condensers include calculating the necessary outlet gas temperature to meet the required percent reduction. We are proposing to delete this paragraph because calculating the temperature is not a testing requirement. The calculation is required as part of the design evaluation requirements specified in § 63.1365(a)(1)(iii) and the procedures for calculating controlled emissions from process vents in § 63.1365(c)(3)(iii).

Section 63.1365(c)(3)(iii) specifies initial compliance procedures for determining controlled emissions from condensers used to control process vents. We are proposing to edit this paragraph for clarity by specifying that the measured exhaust gas temperature must be compared to, and shown to be less than, the temperature used in the equation to calculate the emission rate. Although the proposed language is consistent with the settlement agreement, we are also considering deleting the requirement to measure the temperature as part of the initial compliance demonstration. This change would make this provision consistent with the proposed changes to the design evaluation requirement discussed in section II.A.5 of this preamble. Specifically, the owner or operator would be required to establish an appropriate temperature and calculate the controlled emissions using this temperature as part of the initial compliance determination; temperature measurement is required as part of the monitoring requirements to demonstrate ongoing compliance. We are requesting comment on whether initial compliance can be adequately demonstrated without actually measuring the exhaust gas temperature.

#### 10. Initial Compliance if the Performance Test Is Conducted Over the Entire Batch Cycle

The June 23, 1999 rule specifies that performance tests to demonstrate initial compliance with a percent reduction or outlet concentration standard batch process vents are to be conducted under absolute or hypothetical peak-case conditions. In order to determine when those conditions occur, the rule also specifies that the owner or operator must develop an emissions profile. For absolute peak-case, the emissions profile consists of an evaluation of all emission episodes that could vent through a particular stack (controlled or uncontrolled) and the timing of those episodes. Petitioners have requested that we exempt an owner or operator from the requirement to develop an

emissions profile if the performance test is conducted over the entire batch cycle.

We reviewed the initial compliance requirements and identified two situations where we believe that an emissions profile is not necessary if the emissions test is conducted over the entire batch cycle. In both cases, the control device must be dedicated to a single process at a given time; otherwise, without knowing how vents from multiple processes could be combined, testing over only one of the batch cycles would not clearly capture the absolute peak-case conditions for the control device. One case where an emissions profile would not be necessary is if all of the vents in a process are controlled to at least 98 percent because a test over the entire batch cycle would be certain to include the period of absolute peak-case conditions.

At first glance, it might appear that the absolute peak-case conditions would also be covered for any process where the sum of all process vents is controlled to greater than 90 percent. However, for such processes the owner or operator must first determine if any individual vents are required to be controlled to 98 percent. To do this, the owner or operator must calculate the uncontrolled emissions for all of the vents in the process. For a process with a dedicated control device, the list of uncontrolled emissions is also essentially equivalent to what would be required in an emissions profile (assuming there is no overlap of emissions from different vents within the process). Therefore, it would be misleading to specify that no emissions profile is required in such a situation.

The second situation where an emissions profile would be unnecessary is for a dedicated control device that is used to comply with the outlet concentration limit. As for the first case described above, the emission profile is not needed because, by definition, testing over the entire batch cycle includes the period of absolute peak-case conditions.

Therefore, we are proposing to exempt owners and operators from the requirement to conduct an emissions profile under the following two circumstances: (1) If all process vents for a process are controlled using a control device or series of control devices that reduce HAP emissions by 98 percent or more, no other emission streams are vented to the control device when it is used to control emissions from the subject process, and the performance test is conducted over the entire batch cycle; and (2) if a control device is used to comply with the outlet

concentration limit for process vent emission streams from a single process, no other emission streams are vented to the control device while it is used to control emissions from the process, and the performance test is conducted over the entire batch cycle. If either of these conditions is met, the owner or operator would not be required to calculate and maintain records of the emissions from the process. Instead, they would be required to maintain a record showing how they determined that one of the conditions is met (see § 63.1367(b)(6)(ix)) and include this determination in the Notification of Compliance Status report in accordance with § 63.1368(f)(2).

We are also considering changes to § 63.1365(b)(11)(iv), which specifies test duration requirements for batch operations. This paragraph specifies that each run must occur "over the same absolute or hypothetical peak-case conditions, as specified in paragraph (b)(11)(i) or (ii) of this section." This paragraph could be interpreted as limiting the test duration to the time period associated with the peak-case conditions (i.e., typically 1 hour, or up to a maximum of 8 hours). To demonstrate compliance with the percent reduction standard, we do not believe that the duration of test runs needs to be limited, as long as the test run does not exceed the duration of the averaging period used in demonstrating ongoing compliance. To align the test run duration with the averaging period, we are considering limiting the duration of test runs to 24 hours or the duration of the longest batch controlled by the control device, whichever is shorter. A consequence of this limitation is that an owner or operator would not be able to take advantage of the proposed exemption from the requirement to develop an emission profile, as described above, for batch cycles that exceed 24 hours. On the other hand, for tests to demonstrate compliance with the outlet concentration limit, we are considering limiting the duration of test runs to the applicable peak-case conditions, as in the original interpretation, because of the potential that a large number of low concentrations could be averaged in with high concentrations for a short period, thereby rendering meaningless the concept of demonstrating compliance over peak-case conditions. Therefore, we are requesting comment on how to limit the duration of test runs, especially for tests used to demonstrate compliance with the outlet concentration limit.

### 11. Testing To Determine Controlled Emissions for Large Control Devices

Section § 63.1365(c)(3)(ii)(A) specifies some of the performance test requirements related to determining controlled emissions for large control devices. We are proposing to delete references in this paragraph to testing at the outlet of control devices that are used to comply with an outlet concentration limit. The purpose of this paragraph is to specify procedures for performance tests conducted to demonstrate compliance with the percent reduction standards. Procedures for demonstrating compliance with the outlet concentration limits are specified in § 63.1365(a)(6) and (c)(1)(v).

Although the proposed language is consistent with the settlement agreement, we believe additional editing to condense it would make it easier to read and understand. We believe the following sentence could replace the first three sentences in § 63.1365(c)(3)(ii)(A) with no change in meaning: "Performance test measurements shall be conducted at both the inlet and outlet of the control device for TOC, total organic HAP, and total HCl and chlorine, as applicable, using the test methods and procedures described in paragraph (b) of this section." We are requesting comment on any differences in meaning between this statement and the proposed language in § 63.1365(c)(3)(ii)(A).

### 12. Monitoring Requirements for Alternative Standard

To demonstrate continuous compliance with the alternative standard in the June 23, 1999 rule, an owner or operator must correct the outlet concentrations from combustion devices to 3 percent oxygen if supplemental gases are used. This type of concentration correction accounts for dilution, and it has been included in numerous rules beginning with the new source performance standard (NSPS) for synthetic organic chemical manufacturing industry (SOCMI) unit operations (for a summary, see 65 FR 19160, April 10, 2000). For the oxygen-deficient emission streams, in many industries the potential for dilution is from excessive combustion air; if the proper amount of supplemental combustion air is added, the outlet stream would contain approximately 3 percent oxygen. Many batch PAI processes, however, have high oxygen contents, either naturally or because supplemental gases are added in the manifold prior to the control device for design or safety purposes, not to promote good combustion. The oxygen

correction requirement has the effect of lowering the 20 ppmv compliance level for such streams, perhaps significantly.

As discussed above in this preamble and in the preamble to the PAI promulgated rule (64 FR 33575, June 23, 1999), the alternative standard offers a way to streamline compliance procedures for both affected sources and implementing agencies without sacrificing emissions control. Therefore, we want to encourage rather than restrict its use. To ensure that the alternative standard remains viable, we are proposing to add a monitoring option that was introduced in the NESHAP for the pharmaceuticals industry, another industry that has batch processes and emission streams with high oxygen levels, perhaps even more than the PAI industry. The option would allow the owner or operator to monitor combustion devices for good operating practices. A properly operated combustion device that is meeting the alternative standard's 20 ppmv concentration limit also has an adequate residence time and combustion chamber temperature. We believe that, like correcting to 3 percent oxygen, a requirement to maintain these parameters above specified levels in conjunction with meeting the 20 ppmv limit would provide an economic incentive to minimize the amount of supplemental gas added prior to the combustion device. Furthermore, for most streams, it would also result in control at least equivalent to the otherwise applicable percent reduction requirements.

Therefore, we are proposing two sets of parameter levels as alternatives to correcting for dilution when supplemental gases are used in combustion devices. If the owner or operator complies with the alternative standard instead of a percent reduction requirement of 95 percent or less (e.g., for storage tanks and some process vents), the owner or operator would be required to monitor for a minimum residence time of 0.5 second and a minimum combustion chamber temperature of 760°C. These values are consistent with the parameters specified in § 63.139(c) of the HON for controlling emissions vented from waste management units. If the owner or operator complies with the alternative standard instead of a percent reduction requirement of 98 percent or less, the owner or operator would be required to monitor for a minimum residence time of 0.75 second and a minimum combustion chamber temperature of 816°C. Based on a considerable amount of data, we have concluded that properly designed and operated

incinerators reduce emissions by 98 percent if they maintain these residence times and temperatures.

After completing the settlement agreement, we realized that the agreed upon language contains an internal conflict. Specifically, the phrase "98 percent or less" overlaps with the phrase "95 percent or less." Since there are no requirements to control in the range greater than 95 percent to less than 98 percent, we believe the best way to resolve the conflict is to change "98 percent or less" to "98 percent." If we receive no negative comments on this approach, we will make the change in the final amendments.

In addition to the above change in monitoring for combustion devices, we are also proposing to clarify the monitoring requirements for non-combustion devices that are used to comply with the alternative standard. According to § 63.1366(b)(5), if supplemental gases are introduced before the control device, the owner or operator must correct the outlet concentration as specified in § 63.1365(a)(7). For non-combustion devices, this means evaluating the supplemental and total gas flow rates and calculating a correction factor as specified in equation 8 of subpart MMM, but the rule does not clearly specify when this evaluation is to occur as part of the monitoring effort. To correct this oversight, we are proposing to add a requirement, in § 63.1366(b)(5)(ii)(B), to reevaluate the flow rates and the correction factor each time a different operating scenario is implemented that vents to the subject control device. In addition, we are proposing that the initial procedure used to evaluate the flow rates and the resulting correction factor be included in the Notification of Compliance Status report, and that subsequent reevaluations and revised correction factors be included in the Periodic report that is submitted after the change in the operating scenarios.

### 13. Definitions

We are proposing technical corrections to the definitions of "process vent," "Group 1 wastewater stream," "recovery device," "wastewater," and "supplemental gas."

The promulgated rule, defines a "process vent" as an undiluted and uncontrolled emission stream that contains at least 20 ppmv HAP. We are proposing to change this concentration cutoff to 50 ppmv to be consistent with the MACT floor analysis and the proposed change in the control level for the alternative standard (see section II.B.4 of this preamble).

In the promulgated rule, a maintenance wastewater stream that contains 5.3 megagrams (Mg) of HAP per discharge event is considered to be a "Group 1 wastewater stream." We did not intend to require an evaluation of all HAP in the determination of group status for maintenance wastewater streams; we meant the same HAP that are used to determine the group status for process wastewater streams.

Therefore, we are proposing to change the definition to specify that a maintenance wastewater stream is a Group 1 wastewater stream if it contains 5.3 Mg of compounds in Table 9 of subpart G of part 63 per discharge event. We are proposing an identical change to correct the definition of "wastewater."

The definition of the term "recovery device" in the promulgated rule specifies that a decanter and other equipment, based on the operating principle of gravity separation, may be a recovery device only if they receive two-phase liquid streams. To address the possibility that some process streams contain more than two liquid phases, we are proposing to replace the term "two-phase" with the term "multi-phase."

Finally, to be consistent with the proposed change in the concentration cutoff in the definition of "process vent," as described above, we are also proposing to revise the concentration cutoff in the definition of "supplemental gas."

#### 14. References

In § 63.1362(c)(2)(iv), we are proposing to replace the incorrect reference to paragraph (k) with the correct reference to paragraph (j). In § 63.1365(a)(2) we are proposing to replace the incorrect reference to § 63.1363(d) with the correct reference to § 63.1362(d).

#### C. Other Amendments To Correct the Rule

In addition to the proposed changes to address issues raised by petitioners, we are proposing other changes to clarify requirements, correct errors, and ensure that the rule is implemented as intended.

##### 1. Coal Tar Distillation

We are proposing to exempt coal tar distillation from the requirements of subpart MMM. Based on recent discussions with the industry, we understand that one or more of the distillate fractions from coal tar distillation is often used to produce creosote, which is a PAI. The proposed changes described below to the definition of "intermediate" clarify that

the distillate fraction would be an intermediate. When more than 50 percent of the distillate fraction is used in the production of creosote, the distillate is also an integral intermediate. Thus, in the absence of any other changes to the rule, coal tar distillation would be a PAI process unit subject to the rule. Typically, this is our intended result for integral intermediate processes that are not already subject to another MACT rule, but coal tar distillation is different.

The Background Information Document for the HON (40 CFR part 63, subpart G) illustrates a hierarchy of chemical production processes (EPA-453/D-92-016a, November 1992). This hierarchy is based on a listing of chemicals first developed in an October 1983 EPA report titled "Industrial Organic Chemical Use Trees." The top level of the hierarchy consists of petroleum refineries, natural gas plants, and coal tar distillation plants which supply the basic chemicals used as raw materials in the synthetic organic chemical manufacturing industry. Below this level are high volume intermediates and lower volume finished chemicals. Production of many of the high volume intermediates (and some finished products) is subject to the HON. Other MACT rules cover production primarily of lower level chemicals in the hierarchy. The soon to be proposed MON, however, is specifically intended to apply to chemical manufacturing processes at all levels in the hierarchy that are not subject to any other MACT rule. Therefore, since coal tar distillation is at the top of the hierarchy, we believe that it should be excluded from the requirements of the PAI rule and be subject to the MON.

##### 2. Intermediates

The promulgated rule defines an intermediate as "an organic compound that is produced by chemical reaction and that is further processed or modified in one or more additional chemical reaction steps to produce another intermediate or a PAI." This definition limits intermediates to only those compounds that are produced by chemical synthesis. At the time this definition was written, we were considering a series of extractions to be a single process. We now realize that individual extractions in the series may more properly be considered individual processes, particularly if the material that does not ultimately get processed into a PAI is also a useful intended product (or is processed into one). Therefore, we are proposing to revise the definition to read as follows: "an

intermediate means an organic material that is further processed or modified to ultimately produce a PAI."

##### 3. Offsite Discharge of Wastewater

We are making several technical corrections to the requirements specified in § 63.1362(d)(14) because the current language does not convey our intent. As promulgated, this paragraph specifies requirements for all wastewater streams that are sent offsite for biological treatment. Our intent, however, was to mirror an option in § 63.1256(a)(5)(ii)(D) of the Pharmaceuticals NESHAP that provides compliance alternatives to suppression requirements.

To achieve our intent, we are proposing five changes to § 63.1363(d)(14). First, we are proposing to clarify that it is an option to the otherwise applicable requirements. Second, we are proposing to specify that the option applies only to Group 1 wastewater streams (and residuals removed from Group 1 wastewater streams), except that it also applies to Group 2 wastewater streams if the offsite treatment facility complies with the 95 percent mass reduction option. This change is needed to be consistent with the onsite requirements (i.e., Group 2 wastewater streams are not subject to management and treatment requirements onsite, except when complying with the 95 percent required mass reduction option). Third, the current language limits the option to wastewater discharged only to offsite treatment. We are proposing to specify that the option also applies to wastewater discharged to onsite treatment not owned or operated by the source. This change would make the option consistent with other rules (e.g., § 63.132(g) of the HON and § 63.1256(a)(5)(ii)(D) of the Pharmaceuticals NESHAP). Fourth, the current language specifies that the 5 percent emission limitation applies to HAP on list 1 in Table 36 to subpart G of the HON. We are proposing to revise the provision to require the 5 percent demonstration for soluble HAP listed in Table 3 to subpart GGG because these are the HAP for which the option was developed. Finally, the current language mistakenly applies regardless of the HAP in the wastewater stream, whereas the option in subpart GGG is limited to wastewater streams (and residuals) that contain less than 50 ppmw of partially soluble HAP. This limitation is critical because the option is expected to achieve control equivalent to that achieved by complying with § 63.132(g) only for soluble HAP. To correct this oversight, we are proposing to specify that the option applies only to Group 1

wastewater (or residuals from Group 1 streams) that contain less than 50 ppmw of partially soluble HAP (i.e., the HAP compounds listed in Table 2 of subpart GGG).

#### 4. Requirements for Scrubber Effluent

Under the HON, control devices are considered to be part of the chemical manufacturing process unit. Therefore, effluent from a scrubber is considered wastewater if it is discarded and meets the flow rate and HAP concentration cutoffs in the definition of wastewater. If the effluent also meets the definition of a Group 1 wastewater stream, it is subject to the wastewater standards. This approach in the HON ensures that pollutants removed from an emission stream are destroyed rather than simply transferred between media.

In subpart MMM, our intent was to have scrubber effluent be subject to the same requirements as in the HON. However, because we did not include control devices in the definition of a PAI process unit, the rule is silent on how to handle scrubber effluent. To correct this oversight, we are proposing to revise the definition of wastewater to include effluent from a scrubber used to control emissions from a PAI process. We decided not to change the definition of "PAI process unit" to include control devices because we do not want control devices to be included in reconstruction analyses. If a PAI process unit includes control devices, the control devices become part of the affected source and would be included in reconstruction analyses.

#### 5. Engineering Assessments

To comply with most formats of the process vent standards, § 63.1365(c)(1) requires an owner or operator to determine uncontrolled emissions in accordance with § 63.1365(c)(2). This paragraph requires the owner or operator to estimate emissions from certain batch emission episodes by using specified equations in the rule. For other types of emission episodes, including those from continuous operations, the owner or operator must estimate emissions by conducting an engineering assessment. A variety of techniques may be used in an engineering assessment, including emissions tests. Typically, all data and procedures used in an engineering assessment must be included in the Precompliance plan. The only specified exception to this reporting requirement is when more than a 20 percent difference exists between test data and emissions calculated using the equations; such a difference suggests

that the equations are not applicable for the specific application.

We believe the language used in the engineering assessment provisions has two shortcomings. First, the requirement to submit test results as part of the Precompliance plan was intended to apply only to previously conducted tests. The results from a new test also may be used to determine uncontrolled emissions as part of an engineering assessment, but there is no need to submit the results in the Precompliance plan because a notification of the test and a test plan must be submitted 60 days prior to the test in accordance with § 63.1368(m). Second, because emissions from continuous operations are constant over time, we do not need to review the results from a previous test of continuous operations prior to the compliance date. Provided the test was conducted in accordance with the test methods and procedures specified in § 63.1365(b), the results would be acceptable for demonstrating uncontrolled emission levels. Thus, the results could be submitted in the Notification of Compliance Status report rather than the Precompliance plan.

To clarify these points, we are proposing to revise § 63.1365(c)(2)(ii)(A). The revised paragraph specifies that, for vents with variable emission stream characteristics, engineering assessments that are based on previous tests must be included in the Precompliance plan, except as currently specified in the rule for situations where tests for batch emission episodes differ from the estimated emissions by more than 20 percent. Engineering assessments based on new tests, and engineering assessments for vents without variable emission stream characteristics (i.e., continuous operations) based on previous tests, may be submitted in the Notification of Compliance Status report.

#### 6. Leak Inspections for Closed-Vent Systems

The rule requires leak inspections for closed-vent systems that are used to convey vent streams from waste management units and equipment leaks. For waste management units, the applicable requirements are specified in § 63.148 of the HON because the provisions in that section are referenced from §§ 63.133 through 63.137, and these sections are referenced from § 63.1362(d). For equipment leaks, the applicable requirements are specified in § 63.172 of the HON, which is referenced from § 63.1363(b)(3). Closed-vent systems used to convey emissions from process vents and storage vessels

are subject only to the requirements to prevent flow through bypass lines that are specified in § 63.1362(j).

We are proposing to require identical leak inspections for all closed-vent systems that convey emissions from process vents, storage vessels, or waste management units. The proposed requirements are consistent with the requirements in § 63.148 (i.e., annual sensory or instrument inspections, depending on the type of closed-vent system construction). These requirements are needed for all closed-vent systems to ensure that the required emission reductions are being achieved. Adding these requirements will also make subpart MMM consistent with other MACT rules, which may reduce the chance of inadvertent compliance errors at facilities subject to multiple MACT rules. However, rather than reference § 63.148 from subpart MMM and specify all of the exceptions to subsequent references, we have decided to incorporate the provisions from § 63.148 in the applicable sections of subpart MMM. Inspection requirements would be added in § 63.1366(h), recordkeeping requirements in § 63.1367(f), and reporting requirements in § 63.1368(g)(2)(iii) and (xi). In addition, we are proposing to add a statement in § 63.1362(d)(16) specifying the applicable provisions in subpart MMM that take the place of references to § 63.148 from §§ 63.133 through 63.137.

#### 7. Wastewater Test Methods

To be consistent with other recent rules, we are proposing to add a provision to § 63.1365(b)(8) that would allow an owner or operator to analyze wastewater using Method 8260 or Method 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication No. SW-846, Third Edition, September 1986, as amended by Update I, November 15, 1992).

#### 8. Notification of Process Changes

Section 63.1368(h)(1) specifies that a quarterly report is required whenever a process change is made. Our intent, both in this rule and in the Pharmaceutical Production NESHAP (subpart GGG), is that a process change means the startup of a new operating scenario. Both rules require the owner or operator to prepare operating scenarios that describe the equipment, emissions, controls, and monitoring for each process. A new operating scenario must be prepared each time the owner or operator makes a change to produce a new product. A new operating scenario must also be prepared for any

change to an existing process that is not within the scope of a current operating scenario. Therefore, to clarify the meaning of the term "process change," we are proposing to add a statement in § 63.1368(h) specifying that, for reporting purposes, a process change means the startup of a new process. We are also proposing to require this notification in the next Periodic report (i.e., the Periodic report filed following the change) rather than in quarterly reports because we believe that separate and more frequent reporting of this information is an unnecessary burden.

## 9. Technical Corrections

We are proposing numerous technical corrections throughout the rule to improve consistency, correct terminology and references, and clarify our intent.

a. *Definitions.* We are proposing to revise the definition of "consumption" to clarify requirements for the pollution prevention alternative. Currently, the rule specifies that compliance with pollution prevention is not allowed for HAP generated in the process if the HAP are not part of the production-indexed consumption factor. However, the rule does not explain how generated HAP are to be included in the consumption factor. In the preamble to the promulgated rule (64 FR 33576), we indicated our intent to revise the definition of "consumption" to consider quantities of HAP that are generated by the process as well as those that are brought into the process, provided the HAP generated in the process are the same as the HAP added to the process. Due to an oversight, this change was not made in the promulgated rule. Therefore, we are proposing to make the change now.

The definition of "PAI process unit" states that formulation of pesticide products is not considered part of a PAI process unit. To clarify the rule, we are proposing to define formulation of pesticide products as the mixing, blending, or dilution of a PAI with one or more other PAI or inert ingredients. These are operations that occur after a PAI has been produced and purified. The formulation may be performed by the PAI producer or by others. Implicit in the proposed definition is our assumption that no PAI is manufactured by blending another PAI with other materials. If this assumption is false, we would reconsider the proposed definition. Therefore, we are requesting information about any PAI production process that consists of blending one PAI with other materials to produce another PAI, and we are requesting any

suggestions for clarifying the definition of formulation.

We are proposing minor corrections to several additional terms. In the definition of "Group 1 storage vessel," we are proposing editing changes to clarify the two sets of cutoffs for storage vessels at new affected sources. In the definition of "process vent," we are proposing to replace the incorrect reference to Method 1818 with the correct reference to Method 18. In the definition of "PAI process unit," we are proposing to replace the incorrect reference to § 63.1362(l) with the correct reference to § 63.1362(k).

b. *Equipment Leak Requirements.* We are proposing numerous changes to clarify and correct the equipment leak provisions in § 63.1363. Most of the changes are discussed in table 1 below. Changes to the procedures for designating equipment as unsafe-to-monitor, difficult-to-monitor, and inaccessible in § 63.1363(f) are discussed in the following paragraphs because they are too extensive to include in the table. The proposed changes are intended to clarify the requirements and make them consistent with the HON and other rules.

One change is intended to address a difference in terminology between § 63.1363(f) and the referenced requirements in § 63.172 of the HON for closed-vent systems. According to § 63.1363(f)(2)(i), an owner or operator may designate a closed-vent system as unsafe-to-monitor if monitoring personnel would be exposed to an immediate danger as a consequence of complying with the monitoring requirements in § 63.1363(f)(1)(iii) and, by extension, § 63.172. This provision may cause confusion because, strictly speaking, § 63.172 contains inspection requirements, not monitoring requirements. To eliminate this potential confusion, we are proposing to revise § 63.1363(f)(2)(i) so that it refers to both inspection requirements for closed-vent systems and monitoring requirements for other types of equipment. We are also proposing to make a similar change in § 63.1363(f)(3)(i) for difficult-to-monitor equipment.

Although equipment subject to § 63.1363(f) is exempt from the standard monitoring requirements, monitoring is still required, typically on a less frequent schedule. The rule requires the owner or operator to prepare a written plan that specifies the schedule to be followed. The rule also specifies that unsafe-to-monitor equipment must be monitored no more frequently than the periodic monitoring schedule otherwise applicable, and difficult-to-monitor

equipment must be monitored at least once per year. We are proposing to clarify that the applicable schedule for unsafe-to-monitor equipment is the one that applies to the group of processes in which the equipment is located. The standard monitoring schedule for valves might be less frequent than once per year. Therefore, we are also proposing to allow monitoring of difficult-to-monitor equipment on the periodic monitoring schedule otherwise applicable to the group of processes in which the equipment is located. To determine these schedules, the equipment must be assigned to a group of processes; therefore, we are proposing to add a statement requiring all equipment to be assigned to a group of processes (but the equipment need not all be assigned to the same group of processes). A final proposed change to the monitoring schedule provisions is to specify that monitoring of parts of closed-vent systems that are designated as unsafe-to-monitor be no more frequent than annually, and parts of closed-vent systems that are difficult-to-monitor must be inspected at least once every 5 years.

Several proposed changes address the types of equipment and percentage of equipment that may be designated as unsafe-to-monitor, difficult-to-monitor, or inaccessible. Currently, any type of equipment may be designated in any of the three categories. We are proposing to specify the specific types of equipment that can receive each designation. For example, only connectors can be designated as inaccessible, but connectors cannot be designated as difficult-to-monitor. In addition, the rule currently specifies that no more than 3 percent of each type of equipment at new sources may be designated as difficult-to-monitor or inaccessible. We are proposing to specify that the restriction for difficult-to-monitor equipment applies only to valves and that the restriction for inaccessible equipment applies only to connectors. Finally, we are proposing to delete the statements that specify that any equipment at an existing source may be designated as difficult-to-monitor or inaccessible. These statements are unnecessary because one reaches the same conclusion when the rule is silent on this point.

Two proposed changes would add provisions that were inadvertently left out of the rule. One change is to add a criterion for designating a connector as inaccessible. The other change is to add a statement specifying that inaccessible, ceramic, and ceramic-lined connectors are exempt from the recordkeeping and reporting requirements in the rule.

c. *Table 4 to Subpart MMM.* This table specifies control requirements for items of equipment that are part of open systems for certain liquid streams within PAI process units. We are proposing three changes to make the rule internally consistent, clarify our intent, and eliminate overlapping requirements.

The table includes numerous references to § 63.1256(h)(2) of subpart GGG. We are proposing to replace these references with references to § 63.139(c) of the HON to make the control requirements for the items of equipment in open systems consistent with the requirements specified in § 63.1362(d) for equipment used to manage and treat wastewater streams.

For manholes, we are proposing to delete the option to vent emissions to a fuel gas system. This option should not have been included because we did not include requirements specific to fuel gas systems anywhere in the rule. Our intent is that fuel gas systems are a form of control device, and the requirements for control devices apply.

Finally, we are proposing to change the control requirements for tanks used to manage liquid streams in open systems. Table 4 currently requires control consistent with the control required for wastewater tanks (i.e., installation of a fixed roof and, if certain conditions are met, vent emissions to a control device). However, because the liquid streams managed in such tanks

are also process streams, the tanks are process tanks. A vent on a process tank with a fixed roof is also subject to the requirements for process vents. To eliminate this overlap, we are proposing to replace the vent stream control requirements in Table 4 with a statement that vents on these tanks are process vents.

d. *Miscellaneous Corrections.* We are proposing several changes throughout subpart MMM to correct referencing and typesetting errors, clarify terminology, improve consistency within subpart MMM and with other rules, clarify intent, and eliminate overlapping requirements. These changes are described in Table 1 in this preamble.

TABLE 1.—TECHNICAL CORRECTIONS TO SUBPART MMM

Subpart MMM	Description of proposed correction
§ 63.1362(b)(5)(ii)	Paragraphs (b)(5)(i) through (iii) specify the required HCl and chlorine emission reductions for a new source. The requirements differ depending on the uncontrolled emissions from the process. Currently, paragraph (ii) applies to processes with emissions “greater than or equal to 6.8 Mg/yr and less than 191 Mg/yr.” To eliminate both an overlap between paragraphs (i) and (ii) and a gap between paragraphs (ii) and (iii), we are proposing to change paragraph (ii) so that it applies to processes with uncontrolled emissions “greater than 6.8 Mg/yr and less than or equal to 191 Mg/yr.”
§ 63.1362(b)(6)	We are proposing to delete the reference to paragraph (b)(3)(iii) because there is no such paragraph.
§ 63.1362(d)	We are proposing to require compliance with §§ 63.132 through 63.147 instead of §§ 63.131 through 63.147 because § 63.131 is now a reserved section.
§ 63.1362(d)(2)	We are proposing to replace the reference to §§ 63.132 through 63.148 with a reference to §§ 63.132 through 63.147 because § 63.148 is not part of the wastewater provisions. This change would make paragraph (d)(2) consistent with paragraph (d) introductory text. We are also proposing to delete the exception specified in subparagraph (d)(2)(v) because the reference is not applicable for wastewater tanks.
§ 63.1362(h)(3)	Because of the proposed change to a concentration limit of 50 ppmv when non-combustion devices are used to comply with the alternative standard (see section II.B.5), we are also proposing to specify that process vents and storage vessels controlled to 50 ppmv may not be used in emissions averaging.
§ 63.1363	Throughout § 63.1363 we have used the terms “group of process units” and “group of processes” interchangeably. This could be a source of confusion because only the term “group of processes” is defined in the rule (in § 63.1363(b)). Therefore, we are proposing to replace every use of the term “group of process units” with the term “group of processes.”
§ 63.1363(a)(1)	We are proposing to edit this paragraph to clarify that the closed-vent systems and control devices that are subject to § 63.1363 are only those closed-vent systems and control devices that are used to control emissions from equipment leaks.
§ 63.1363(a)(10)(ii) and (iii)	The amended HON and § 63.1363(b)(3)(iii) of subpart MMM require monitoring outside of the regularly scheduled periodic monitoring only as an option in § 63.174(c)(1)(i) for connectors that are reconnected after being opened. Therefore, we are proposing to replace the reference to § 63.174(e) with a reference to § 63.174(c)(1)(i).
§ 63.1363(b)(3)(iii)	One change is to simplify the references by specifying in one sentence that all of the paragraphs in § 63.174(b)(3) do not apply and are replaced by paragraphs in § 63.1363(b)(3)(iii); all of the monitoring requirements would be contained within § 63.1363(b)(3)(iii). A second proposed change is to specify that the monitoring frequency must be increased to once every 2 years if at least 0.5 percent but less than 1.0 percent of the connectors monitored in an 8-yr monitoring period are leaking; the proposed change is consistent with the requirements for 4-yr monitoring periods. A third proposed change is to clarify that § 63.174(h), the requirements for inaccessible connectors, does not apply and that the owner or operator shall instead comply with § 63.1363(f).
§ 63.1363(b)(3)(iv)	We are proposing to specify in § 63.1363(b)(3)(iv) that, for pumps, the phrase “at the frequencies specified in Table 1 of this subpart” in § 63.178(c)(3)(iii) shall mean “quarterly” for the purposes of subpart MMM (i.e., even if a pump is operated less than full-time, it must be monitored at least once in every quarter that it operates).
§ 63.1363(b)(3)(vi)	To clarify the requirements for PAI owners and operators, we are proposing to add a statement in § 63.1363(b)(3)(vi) specifying that when various sections in subpart H reference other sections in subpart H, the references shall be to the sections as modified in § 63.1363.
§ 63.1363(c)(2)(i)	We are proposing to add compliance with § 63.178 to the list of exceptions to clarify that the quarterly monitoring is not required if the owner or operator complies with the pressure testing option of the alternative means of emission limitation in § 63.178.

TABLE 1.—TECHNICAL CORRECTIONS TO SUBPART MMM—Continued

Subpart MMM	Description of proposed correction
§ 63.1363(c)(2)(iii) and (c)(5)(iv) .....	We are proposing to revise both paragraphs to specify that if there are visual indications of liquids dripping during a weekly visual inspection, then you must either monitor using EPA Method 21 or eliminate the visual indication of liquids dripping. These changes also would make the paragraphs consistent with the Consolidated Federal Air Rule (CAR) (40 CFR 65.107, subpart F).
§ 63.1363(c)(4)(ii) .....	We are proposing to revise the paragraph to specify that quarterly monitoring may be reinstated after the 1-year rolling average again indicates that leaking pumps constitute less than 10 percent of the pumps in a group of processes (or fewer than 3 pumps in a group of processes with fewer than 30 pumps).
§ 63.1363(c)(3)(i) and (c)(5)(vi) .....	We are proposing to specify the leak repair requirements only once, in paragraph (c)(3). We are also proposing editorial changes to specify that when a leak is detected, it must be repaired as specified in paragraph (c)(3).
§ 63.1363(c)(6) .....	This paragraph specifies that pumps and agitators without an externally actuated shaft penetrating the pump or agitator housing are exempt from all of the monitoring and repair provisions except for the visual inspections. We are proposing to delete this exception because such pumps and agitators have no seals to inspect for leaks.
§ 63.1363(e)(7)(iii) .....	We are proposing to add a statement to clarify that the monitoring required by this paragraph is in addition to the monitoring required to satisfy the definitions of “repaired” and “first attempt at repair.” In addition, we are proposing to add subparagraphs that specify how to conduct the monitoring, that regularly scheduled periodic monitoring may be used to satisfy this requirement, and procedures to follow to determine if the valve must be counted as leaking for purposes of calculating the percent leakers. This language was inadvertently left out of the rule published on June 23, 1999; including it would make this rule consistent with the HON and the CAR (40 CFR 63.168(f) and 40 CFR 65.106(d), respectively).
§ 63.1363(e)(9) .....	This paragraph specifies that monthly monitoring is not required if a facility has fewer than 250 valves. Instead, monitoring is required quarterly, or less frequently if the percent leaking valves are below specified limits. However, the only less frequent options that are actually specified are the semiannual and biennial options; we inadvertently neglected to include the annual option. Therefore, we are proposing to correct this oversight.
§ 63.1363(g)(2)(vi) .....	We are proposing to delete the requirement to maintain a list of equipment that is designated as inaccessible so that this paragraph is consistent with one of the proposed changes to § 63.1363(f); and to delete the requirement to maintain a list of equipment for which the owner or operator invokes the delay of repair provisions when repair personnel would be exposed to an immediate danger if attempting to repair without a process shutdown. This requirement is unnecessary because it is redundant with the requirement in § 63.1363(g)(4)(v) to record the reason for any delay of repair.
§ 63.1365(a)(2) .....	As a result of the proposed change to the standards, compliance based on total organic HAP would no longer be limited to the percent reduction format. Therefore, we are proposing to delete the reference to the “percent reduction format” from the third sentence in this paragraph. Our second proposed change is to replace the incorrect reference to § 63.1363(d) with the correct reference to § 63.1362(d).
§ 63.1365(b)(11)(iii)(A) .....	We are proposing to replace the incorrect reference to paragraph (b)(1)(i)(B) with the correct reference to paragraph (b)(11)(i)(B).
§ 63.1365(c)(2)(i)(C) .....	We are proposing to correct the definitions for the terms “P <sub>j</sub> ” and “m” that are used in Equation 10 by replacing the phrase “condensable VOC compounds” with the phrase “condensable compounds.”
§ 63.1365(c)(2)(i)(D)(4)(i) .....	We are proposing to correct Equation 15 by replacing the terms “P <sub>j, 1</sub> ” and “P <sub>j, 2</sub> ” with the terms “P <sub>i, 1</sub> ” and “P <sub>i, 2</sub> .” We are also proposing to correct the definition of the term “m” by specifying that it counts the number of HAP compounds in the emission stream, not the number of condensable VOC.
§ 63.1365(c)(2)(i)(D)(4)(iii) .....	In the list of definitions of terms for Equation 17, we are proposing to correct a typographical error; the term “ <sub>HAP,1</sub> ” should read “ <sub>nHAP,1</sub> .”
§ 63.1365(c)(2)(i)(E)(3) .....	We are proposing to replace the upper case mole fraction terms with lower case terms; to define the mole fraction term as the liquid phase mole fraction, not the mole fraction in the emission stream; and we are proposing to replace the phrase “condensable VOC” with the phrase “condensable compound” in the definitions of the terms “P <sub>j</sub> ,” “x <sub>j</sub> ,” and “m.”
§ 63.1365(c)(2)(i)(E)(4) .....	We are proposing to move the Equation 23 to its proper location before the definitions list.
§ 63.1365(c)(2)(i)(F) .....	We are proposing to correct Equation 26 by replacing the term “MW <sub>s</sub> ” with the term “MW <sub>HAP</sub> ” to be consistent with the term in the list of definitions of terms. We are also proposing to correct the definitions of 5th terms “P <sub>j</sub> ” and “m” by replacing the phrase “condensable VOC” with the phrase “condensable compounds.”
§ 63.1365(d)(3)(ii) .....	This paragraph specifies that initial compliance for storage vessels equipped with floating roofs is demonstrated by complying with procedures specified in § 63.120, except as specified in § 63.1362(d)(2)(i), (iv), and (v). Because we are proposing to delete one of the referenced paragraphs (see discussion earlier in this table), we are proposing to state the exceptions in subparagraphs to this paragraph.
§ 63.1365(g) .....	We are proposing to replace several incorrect references to § 63.1362(h) and (i) with the correct reference to § 63.1362(g).
§ 63.1367(a)(3) .....	We are proposing to replace the incorrect reference to paragraph (b)(3)(i) with the correct reference to paragraph (a)(3)(i).

TABLE 1.—TECHNICAL CORRECTIONS TO SUBPART MMM—Continued

Subpart MMM	Description of proposed correction
§ 63.1367(a)(3)(i) .....	We are proposing to clarify that the owner or operator must record the occurrence and duration of each malfunction of process operations, consistent with the requirements in § 63.6(e)(3)(iii) of the General Provisions to 40 CFR part 63.
§ 63.1367(b)(4) .....	We are proposing to specify that the records must be updated daily to be consistent with the monitoring requirements specified in § 63.1366(c).
§ 63.1367(b)(7) .....	We are proposing to revise this paragraph to require a log or schedule of operating scenarios that is updated daily or, at a minimum, each time a different operating scenario takes effect.
§ 63.1367(b)(10) .....	Table 1 in the rule specifies that § 63.10(b)(2) does not apply to subpart MMM because we have specified applicable records in § 63.1367. One of the requirements in § 63.10(b)(2) is to record all maintenance performed on the air pollution control equipment. We neglected to include this requirement in § 63.1367, but these are important records that we should have required. Therefore, we are proposing to add this paragraph requiring records of this information.
§ 63.1367(b)(11) .....	We are proposing to add this paragraph requiring records of the results of each inspection and seal gap measurement in accordance with § 63.123(c) through (e). This change would make the recordkeeping requirements consistent with the HON and numerous other rules.
§ 63.1368(e)(4) .....	We are proposing to replace the incorrect reference to § 63.1362(i) with the correct reference to § 63.1362(g). We are also proposing to replace the incorrect reference to § 63.1365(g)(3) with the correct reference to § 63.1365(g)(1).
§ 63.1368(g)(1) .....	We are proposing to clarify that the first report is due no later than 240 days after the Notification of Compliance Status report is due, and that subsequent reports are due no later than 60 days after the end of the applicable reporting period.
§ 63.1368(g)(2)(xii) .....	We are proposing to add this paragraph that requires reporting consistent with § 63.122(d) through (f) of the HON. The referenced paragraphs require that the results of inspections that detected a failure, or seal gap measurements that exceed required limits, be submitted in Periodic reports.
§ 63.1368(m) .....	We are proposing to replace the incorrect reference to § 63.1365(b)(10)(ii) with the correct reference to § 63.1365(b)(11)(iii).
Table 1 to subpart MMM .....	Table 1 to subpart MMM currently specifies that § 63.9(j) does not apply for changes related to compliance for equipment leaks. We are proposing to specify that § 63.9(j) does not apply at all for the purposes of subpart MMM because § 63.1368(h) specifies procedures for notification of changes.

**III. What Are the Administrative Requirements for the Proposed Amendments?**

*A. Executive Order 12866, Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines “significant regulatory action” as one that is likely to result in 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 these proposed amendments do not constitute a “significant regulatory action” under the terms of Executive Order 12866. Consequently, this action was not subject to OMB review.

*B. Executive Order 13132, Federalism*

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

Today’s proposed amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132, because State and local governments do not own or operate any sources that would be subject to this rule. Thus, Executive Order 13132 does not apply to today’s action.

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

*C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.”

The final rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to the proposed rule amendments.

*D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, 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 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 proposed amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the final rule has been determined not to be "economically significant" as defined under Executive Order 12866.

*E. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on 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 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 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 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 today's proposed amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. For existing sources, the total annual cost of the Pesticide Active Ingredient Production NESHAP has been estimated to be approximately \$39.4 million (64 FR 33559, June 23, 1999). Today's proposed amendments do not add new requirements that would increase this cost. Thus, today's proposed amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that these proposed amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed amendments are not subject to the requirements of section 203 of the UMRA.

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

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

For purposes of assessing the impacts of today's proposed amendments on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325320 that has up to 500 employees; (2) a small business in NAICS code 325199 that has up to 1,000 employees; (3) 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 (4) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The EPA has determined that none of the small entities will experience a significant impact because the proposed amendments impose no additional regulatory requirements on owners or operators of affected sources.

Although these proposed amendments will not have a significant economic impact, EPA nonetheless has tried to reduce the impact of the proposed amendments on small entities. Many of the proposed amendments define optional means of compliance. For example, vapor balancing was added as an optional means of compliance for storage tanks, compliance may be demonstrated for either TOC or total organic HAP rather than only TOC, monitoring of combustion device operating parameters would be allowed under the alternative standard as an option to correcting to 3 percent oxygen, and we have specified additional EPA test methods that may be used to analyze wastewater without performing the validation procedures specified in Method 301 of Appendix A to 40 CFR part 63. We also are proposing to add a provision that would allow an owner or operator to request an extension to the specified period of planned routine maintenance of control devices for storage vessels during which the owner or operator is exempt from the standards. The proposed amendments also simplify the initial compliance demonstration requirements and recordkeeping requirements for processes that are controlled by a dedicated control device. We continue to be interested in the potential impacts of the proposed amendments on small entities and welcome comments on issues related to such impacts.

*G. Paperwork Reduction Act*

The OMB has approved the information collection requirements contained in the 1999 NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0370. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1807.01), and

a copy may be obtained from Sandy Farmer by mail at U. S. EPA, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by email at [farmer.sandy@epa.gov](mailto:farmer.sandy@epa.gov), or by calling (202) 260-2740.

Today's proposed amendments to the NESHAP will have no net impact on the information collection burden estimates made previously. An oversight has been corrected by adding recordkeeping and reporting requirements for add-on control devices for storage tanks equipped with floating roofs. The promulgated rule only included recordkeeping and reporting requirements for add-on control devices for storage tanks even though add-on control devices and floating roofs were considered in the cost impacts and burden estimates. Also, the proposed amendments clarify the intent of several provisions in the 1999 NESHAP and correct inadvertent omissions and minor drafting errors in the 1999 NESHAP. Therefore, the ICR has not been revised.

#### H. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, § 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

During the rulemaking, EPA searched for voluntary consensus standards that might be applicable. The search identified 22 voluntary consensus standards that appeared to have possible use in lieu of EPA standard reference methods in the rule, but after review, none were considered practical alternatives to the specified EPA methods. An assessment of these voluntary consensus standards is presented in the preamble to the 1999 NESHAP (64 FR 33588, June 23, 1999). Today's proposed amendments specify additional EPA methods that may be used to determine the concentration of HAP in wastewater samples without conducting the validation procedures specified in § 63.144, but no additional

voluntary consensus standards have been identified. The EPA welcomes comments on this aspect of these proposed amendments and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this rule.

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

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

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

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

Dated: March 20, 2002.

Christine Todd Whitman,  
Administrator.

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

#### PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

#### Subpart MMM—National Emission Standards for Pesticide Active Ingredient Production

2. Section 63.1360 is amended by:
- Revising paragraph (b) introductory text;
  - Revising paragraph (b)(2);
  - Revising paragraph (d)(3);
  - Redesignating paragraph (d)(4) as paragraph (d)(5) and adding a new paragraph (d)(4);
  - Revising paragraph (f) introductory text;
  - Revising paragraphs (f)(2) through (4) and adding paragraph (f)(5);
  - Revising paragraph (h); and
  - Revising paragraph (i)(1).

The revisions and additions read as follows:

#### § 63.1360 Applicability.

\* \* \* \* \*

(b) *New source applicability.* A new affected source subject to this subpart and to which the requirements for new

sources apply is defined according to the criteria in paragraph (b)(1) or (2) of this section.

\* \* \* \* \*

(2) Any dedicated PAI process unit that meets the criteria specified in paragraphs (b)(2)(i) and (ii) of this section.

(i) For which construction, as defined in § 63.1361, commenced after November 10, 1997, or reconstruction commenced after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**].

(ii) That has the potential to emit 10 tons/yr of any one HAP or 25 tons/yr of combined HAP.

\* \* \* \* \*

- (d) \* \* \*  
(3) Production of ethylene;  
(4) Coal tar distillation; and

\* \* \* \* \*

(f) *Storage vessel applicability determination.* An owner or operator shall follow the procedures specified in paragraphs (f)(1) through (5) of this section to determine whether a storage vessel is part of the affected source to which this subpart applies.

\* \* \* \* \*

(2) Unless otherwise excluded under paragraph (f)(1) of this section, the storage vessel is part of a PAI process unit if either the input to the vessel from the PAI process unit is greater than or equal to the input from any other PAI or non-PAI process unit, or the output from the vessel to the PAI process unit is greater than or equal to the output to any other PAI or non-PAI process unit. If the greatest input to and/or output from a shared storage vessel is the same for two or more process units, including one or more PAI process units, the owner or operator must assign the storage vessel to any one of the PAI process units that meet this condition.

(3) Unless otherwise excluded under paragraph (f)(1) of this section, where a storage vessel is located in a tank farm (including a marine tank farm), the applicability of this subpart shall be determined according to the provisions in paragraphs (f)(3)(i) through (iii) of this section.

(i) The storage vessel in the tank farm is not subject to the provisions of this subpart if the greatest input to or output from the storage vessel is for a non-PAI process unit. The input and output shall be determined among only those process units that share the storage vessel and that do not have an intervening storage vessel for that product (or raw material, as appropriate).

(ii) Except for storage vessels in a tank farm excluded in accordance with

paragraph (f)(3)(i), applicability of this subpart shall be determined according to the provisions in paragraphs

(f)(3)(ii)(A) through (C) of this section.

(A) Except as specified in paragraph (f)(3)(ii)(C) of this section, this subpart does not apply to the storage vessel in a tank farm if each PAI process unit that receives material from or sends material to the storage vessel has an intervening storage vessel for that material.

(B) Except as specified in paragraph (f)(3)(ii)(C) of this section, a storage vessel in a tank farm shall be assigned to the PAI process unit that receives the greatest amount of material from or sends the greatest amount of material to the storage vessel and does not have an intervening storage vessel. If two or more PAI process units have the same input to or output from the storage vessel in the tank farm, then the storage vessel in the tank farm may be assigned to any one of the PAI process units that meet this condition.

(C) As an alternative to the requirements specified in paragraphs (f)(3)(ii)(A) and (B) of this section, even if an intervening storage vessel is present, an owner or operator may elect to assign a storage vessel in a tank farm to the PAI process unit that sends the most material to or receives the most material from the storage vessel. If two or more PAI process units have the same input to or output from the storage vessel in the tank farm, then the storage vessel in the tank farm may be assigned to any one of the PAI process units that meet this condition.

(iii) With respect to a process unit, an intervening storage vessel means a storage vessel connected by hard-piping to the process unit and to the storage vessel in the tank farm so that the product or raw material entering or leaving the process flows into (or from) the intervening storage vessel and does not flow directly into (or from) the storage vessel in the tank farm.

(4) If use varies from year to year, then use for the purposes of this subpart for existing sources shall be based on the utilization that occurred during the year preceding June 23, 1999 or, if the storage vessel was not in operation during that year, the use shall be based on the expected use in the 5 years after startup. This determination shall be reported as part of an operating permit application or as otherwise specified by the permitting authority.

(5) If the storage vessel begins receiving material from (or sending material to) another process unit, or ceasing to receive material from (or send material to) a PAI process unit, or if there is a significant change in the use of the storage vessel, the owner or

operator shall reevaluate the ownership determination for the storage vessel.

\* \* \* \* \*

(h) *Applicability of process units included in a process unit group.* An owner or operator may elect to develop process unit groups in accordance with paragraph (h)(1) of this section. For the PAI process units in these process unit groups, the owner or operator may comply with the provisions in overlapping MACT standards, as specified in paragraphs (h)(2) through (4) of this section, as an alternative means of demonstrating compliance with the provisions of this subpart.

(1) Develop, revise, and document changes in a process unit group in accordance with the procedures specified in paragraphs (h)(1)(i) through (vi) of this section.

(i) Initially, identify a non-dedicated PAI process unit that is operating on December 23, 2003 or a date after December 23, 2003, and identify all processing equipment that is part of this PAI process unit, based on descriptions in operating scenarios.

(ii) Add to the group any other non-dedicated PAI and non-dedicated non-PAI process units expected to be operated in the 5 years after the date specified in paragraph (h)(1)(i) of this section, provided they satisfy the criteria specified in paragraphs (h)(1)(ii)(A) through (C) of this section. Also identify all of the processing equipment used for each process unit based on information from operating scenarios and other applicable documentation.

(A) Each PAI process unit that is added to a group must have some processing equipment that is part of one or more PAI process units that are already in the process unit group.

(B) Each non-PAI process unit that is added to a group must have some processing equipment that is also part of one or more of the PAI process units in the group.

(C) No process unit may be part of more than one process unit group.

(iii) The initial process unit group consists of all of the processing equipment for the process units identified in paragraphs (h)(1)(i) and (ii) of this section.

(iv) If compliance is to be demonstrated in accordance with paragraph (h)(3) of this section, determine the primary product of the process unit group according to the procedures specified in paragraphs (h)(1)(iv)(A) through (C) of this section.

(A) The primary product is the type of product (e.g., PAI, pharmaceutical product, thermoplastic resin, etc.) that is

expected to be produced for the greatest operating time in the 5-year period specified in paragraph (h)(1)(i) of this section.

(B) If the process unit group produces multiple products equally based on operating time, then the primary product is the product with the greatest production on a mass basis over the 5-year period specified in paragraph (h)(1)(i) of this section.

(C) The primary product of the group must be redetermined if the owner or operator does not intend to make that product in the future or if it has not been made for 5 years. The results of the redetermination must be recorded as specified in § 63.1367(b) and reported in a Periodic report no later than the report covering the period for the end of the 5th year as specified in § 63.1368(g)(2). If the primary product changes, the owner or operator must either demonstrate compliance with the applicable subpart as specified in paragraph (h)(3) of this section or demonstrate compliance with the provisions of this subpart MMM.

(v) Add process units developed in the future in accordance with the conditions specified in paragraphs (h)(1)(ii)(A) through (C) of this section.

(vi) Maintain records of changes in the process units in each process unit group as specified in § 63.1367(b)(9), and maintain reports as specified in § 63.1368(f)(9) and (g)(2)(ix).

(2) If any of the products produced in the process unit group are subject to 40 CFR part 63, subpart GGG (Pharmaceuticals MACT), the owner or operator may elect to comply with the requirements of subpart GGG for the PAI process unit(s) within the process unit group, except for the following:

(i) The emission limit standard for process vents in § 63.1362(b)(2)(i) shall apply in place of § 63.1254(a)(2);

(ii) When the dates of April 2, 1997 and April 2, 2007 are provided in § 63.1254(a)(3)(ii), the dates of November 10, 1997 and November 10, 2007, respectively, shall apply for purposes of this subpart MMM; and

(iii) Requirements in § 63.1367(a)(5) regarding application for approval of construction or reconstruction shall apply in place of the provisions in § 63.1259(a)(5).

(3) If the primary product of a process unit group is determined to be a type of material that is subject to another subpart of 40 CFR part 63 on June 23, 1999 or startup of the first process unit after formation of the process unit group, whichever is later, the owner or operator may elect to comply with the other subpart for any PAI process unit within the process unit group, subject to

the requirement in this paragraph (h)(3). Emissions from PAI Group 1 process vents, as defined in § 63.1361, must be reduced in accordance with the control requirements for Group 1 vents as specified in the alternative subpart. The criteria in the alternative subpart for determining which process vents must be controlled do not apply for the purposes of paragraph (h)(3) of this section.

(4) The requirements for new and reconstructed sources in the alternative subpart apply to all PAI process units in the process unit group if and only if the affected source under the alternative subpart meets the requirements for construction or reconstruction.

(i) \* \* \*

(1) *Compliance with other MACT standards.* (i) After the compliance dates specified in § 63.1364, an affected source subject to the provisions of this subpart that is also subject to the provisions of any other subpart of 40 CFR part 63 may elect, to the extent the subparts are consistent, under which subpart to maintain records and report to EPA. The affected source shall identify in the Notification of Compliance Status report required by § 63.1368(f) under which authority such records will be maintained.

(ii) After the compliance dates specified in § 63.1364, at an offsite reloading or cleaning facility subject to § 63.1362(b)(6), compliance with the emission standards and associated initial compliance monitoring, recordkeeping, and reporting provisions of any other subpart of 40 CFR part 63 constitutes compliance with the provisions of § 63.1362(b)(6)(vii)(B) or (C). The owner or operator of the affected storage vessel shall identify in the Notification of Compliance Status report required by § 63.1368(f) the subpart of 40 CFR part 63 with which the owner or operator of the offsite reloading or cleaning facility complies.

\* \* \* \* \*

3. Section 63.1361 is amended by:

a. Revising the definitions for “Construction,” “Consumption,” “Group 1 storage vessel,” “Group 1 wastewater stream,” “Intermediate,” “Process,” “Process unit group,” “Process vent,” “Recovery device,” “Supplemental gases,” and “Wastewater”;

b. Revising “equipment identified in § 63.1362(l)” to read “equipment identified in § 63.1362(k)” in the definition of “pesticide active ingredient manufacturing process unit (PAI process unit);” and

c. Adding definitions in alphabetical order for “Dedicated PAI process unit,”

“Formulation of pesticide products,” “Non-dedicated PAI process unit,” “Reconfiguration,” and “Reconstruction.”

The revisions and additions read as follows:

**§ 63.1361 Definitions.**

\* \* \* \* \*

*Construction* means the onsite fabrication, erection, or installation of an affected source or dedicated PAI process unit. Addition of new equipment to an affected source does not constitute construction, provided the new equipment is not a dedicated PAI process unit with the potential to emit 10 tons/yr of any one HAP or 25 tons/yr of combined HAP, but it may constitute reconstruction of the affected source or PAI process unit if it satisfies the definition of reconstruction in this section. At an affected source, changing raw materials processed and reconfiguring non-dedicated equipment to create a non-dedicated PAI process unit do not constitute construction.

*Consumption* means the quantity of all HAP raw materials entering a process in excess of the theoretical amount used as reactant, assuming 100 percent stoichiometric conversion. The raw materials include reactants, solvents, and any other additives. If HAP are generated in the process as well as added as raw material, consumption includes the quantity generated in the process.

\* \* \* \* \*

*Dedicated PAI process unit* means a PAI process unit constructed from equipment that is fixed in place and designed and operated to produce only a single product or co-products. The equipment is not designed to be reconfigured to create different process units, and it is not operated with different raw materials so as to produce different products.

\* \* \* \* \*

*Formulation of pesticide products* means the mixing, blending, or diluting of a PAI with one or more other PAI's or inert ingredients.

\* \* \* \* \*

*Group 1 storage vessel* means a storage vessel at an existing affected source with a capacity equal to or greater than 75 m<sup>3</sup> and storing material with a maximum true vapor pressure greater than or equal to 3.45 kPa, a storage vessel at a new affected source with a capacity equal to or greater than 40 m<sup>3</sup> and storing material with a maximum true vapor pressure greater than or equal to 16.5 kPa, or a storage vessel at a new affected source with a capacity greater than or equal to 75 m<sup>3</sup>

and storing material with a maximum true vapor pressure greater than or equal to 3.45 kPa.

\* \* \* \* \*

*Group 1 wastewater stream* means process wastewater at an existing or new source that meets the criteria for Group 1 status in § 63.132(c) for compounds in Table 9 of subpart G of this part or a maintenance wastewater stream that contains 5.3 Mg of compounds in Table 9 of subpart G of this part per discharge event.

\* \* \* \* \*

*Intermediate* means an organic compound that is manufactured in a process and that is further processed or modified in one or more additional steps to ultimately produce a PAI.

\* \* \* \* \*

*Non-dedicated PAI process unit* means a process unit that is not a dedicated PAI process unit.

\* \* \* \* \*

*Process* means a logical grouping of processing equipment which collectively function to produce a product. For the purpose of this subpart, a PAI process includes all, or a combination of, reaction, recovery, separation, purification, treatment, cleaning, and other activities or unit operations, which are used to produce a PAI or integral intermediate. Ancillary activities are not considered a PAI process or any part of a PAI process. Ancillary activities include boilers and incinerators (not used to comply with the provisions of § 63.1362), chillers or refrigeration systems, and other equipment and activities that are not directly involved (i.e., they operate within a closed system and materials are not combined with process fluids) in the processing of raw materials or the manufacturing of a PAI. A PAI process and all integral intermediate processes for which 100 percent of the annual production is used in the production of the PAI may be linked together and defined as a single PAI process unit.

\* \* \* \* \*

*Process unit group* means a group of process units that manufacture PAI's and products other than PAI's by alternating raw materials or operating conditions, or by reconfiguring process equipment. A process unit group is determined according to the procedures specified in § 63.1360(g).

*Process vent* means a point of emission from processing equipment to the atmosphere or a control device. The vent may be the release point for an emission stream associated with an individual unit operation, or it may be the release point for emission streams from multiple unit operations that have

been manifolded together into a common header. Examples of process vents include, but are not limited to, vents on condensers used for product recovery, bottom receivers, surge control vessels, reactors, filters, centrifuges, process tanks, and product dryers. A vent is not considered to be a process vent for a given emission episode if the undiluted and uncontrolled emission stream that is released through the vent contains less than 50 ppmv HAP, as determined through process knowledge that no HAP are present in the emission stream; using an engineering assessment as discussed in § 63.1365(b)(2)(ii); from test data collected using Method 18 of 40 CFR part 60, appendix A; or from test data collected using any other test method that has been validated according to the procedures in Method 301 of appendix A of this part. Process vents do not include vents on storage vessels regulated under § 63.1362(c), vents on wastewater emission sources regulated under § 63.1362(d), or pieces of equipment regulated under § 63.1363.

*Reconfiguration* means disassembly of processing equipment for a particular non-dedicated process unit and reassembly of that processing equipment in a different sequence, or in combination with other equipment, to create a different non-dedicated process unit.

*Reconstruction*, as used in § 63.1360(b), shall have the meaning given in § 63.2, except that "affected or previously unaffected stationary source" shall mean either "affected facility" or "PAI process unit."

*Recovery device*, as used in the wastewater provisions, means an individual unit of equipment capable of, and normally used for the purpose of, recovering chemicals for fuel value (i.e., net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include organic removal devices such as decanters, strippers, or thin-film evaporation units. To be a recovery device, a decanter and any other equipment based on the operating principle of gravity separation must receive only multi-phase liquid streams.

*Supplemental gases* means any nonaffected gaseous streams (streams that are not from process vents, storage vessels, equipment or waste management units) that contain less than 50 ppmv TOC and less than 50 ppmv total HCl and chlorine, as determined through process knowledge, and are combined with an affected vent

stream. Supplemental gases are often used to maintain pressures in manifolds or for fire and explosion protection and prevention. Air required to operate combustion device burner(s) is not considered a supplemental gas.

*Wastewater* means water that meets either of the conditions described in paragraph (1) or (2) of this definition and is discarded from a PAI process unit that is at an affected source:

- (1) Is generated from a PAI process or a scrubber used to control emissions from a PAI process and contains either:
  - (i) An annual average concentration of compounds in Table 9 of subpart G of this part of at least 5 ppmw and has an average flow rate of 0.02 L/min or greater; or
  - (ii) An annual average concentration of compounds in Table 9 of subpart G of this part of at least 10,000 ppmw at any flow rate;
- (2) Is generated from a PAI process unit as a result of maintenance activities and contains at least 5.3 Mg of compounds listed in Table 9 of subpart G of this part per individual discharge event.

- 4. Section 63.1362 is amended by:
    - a. Revising paragraph (b)(2)(iv)(A);
    - b. Revising paragraph (b)(4)(ii)(A);
    - c. Revising paragraph (b)(5)(ii);
    - d. Revising paragraph (b)(6);
    - e. Revising paragraph (c)(2) introductory text;
    - f. Revising paragraph (c)(2)(iv) introductory text;
    - g. Revising paragraph (c)(2)(iv)(B);
    - h. Revising paragraphs (c)(3) through (6);
    - i. Adding paragraph (c)(7);
    - j. Revising paragraph (d) introductory text;
    - k. Revising paragraph (d)(2) introductory text;
    - l. Removing paragraph (d)(2)(v);
    - m. Revising paragraphs (d) (12) through (14);
    - n. Adding paragraphs (d) (15) and (16);
    - o. Revising paragraph (h) (2) introductory text;
    - p. Revising paragraphs (h) (2)(i) and (iii); and
    - q. Revising paragraphs (h) (3) and (4).
- The revisions and additions read as follows:

**§ 63.1362 Standards.**

- (b) \* \* \*
- (2) \* \* \*
- (iv) \* \* \*
- (A) To outlet concentrations less than or equal to 20 ppmv; or

- (4) \* \* \*
- (ii) \* \* \*
- (A) To outlet concentrations less than or equal to 20 ppmv; or
- (5) \* \* \*
- (ii) If HCl and Cl<sub>2</sub> emissions, including HCl generated from combustion of halogenated process vent emissions, from the sum of all process vents within a process are greater than 6.8 Mg/yr and less than or equal to 191 Mg/yr, these HCl and Cl<sub>2</sub> emissions shall be reduced by 94 percent or to an outlet concentration less than or equal to 20 ppmv.

(6) *Alternative standard.* As an alternative to the provisions in paragraphs (b) (2) through (5) of this section, the owner or operator may route emissions from a process vent to a combustion control device achieving an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 20 ppmv or less, and an outlet concentration of HCl and Cl<sub>2</sub> of 20 ppmv or less. If the owner or operator is routing emissions to a non-combustion control device or series of control devices, the control device(s) must achieve an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 50 ppmv or less, and an outlet concentration of HCl and Cl<sub>2</sub> of 50 ppmv or less. Any process vents within a process that are not routed to such a control device or series of control devices must be controlled in accordance with the provisions of paragraphs (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(3)(ii), (b)(4)(ii), (b)(5)(ii), or (b)(5)(iii) of this section, as applicable.

(c) \* \* \*

(2) *Standard for existing sources.* Except as specified in paragraphs (c)(4), (5), and (6) of this section, the owner or operator of a Group 1 storage vessel at an existing affected source, as defined in § 63.1361, shall equip the affected storage vessel with one of the following:

- (iv) A closed vent system meeting the conditions of paragraph (j) of this section and a control device that meets any of the following conditions:
  - (B) Reduces organic HAP emissions to outlet concentrations of 20 ppmv or less; or

(3) *Standard for new sources.* Except as specified in paragraphs (c)(4), (5), and (6) of this section, the owner or operator of a Group 1 storage vessel at a new source, as defined in § 63.1361, shall equip the affected storage vessel in

accordance with any one of paragraphs (c)(2)(i) through (iv) of this section.

(4) *Alternative standard.* As an alternative to the provisions in paragraphs (c)(2) and (3) of this section, the owner or operator of an existing or new affected source may route emissions from storage vessels to a combustion control device achieving an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 20 ppmv or less, and an outlet concentration of hydrogen chloride and chlorine of 20 ppmv or less. If the owner or operator is routing emissions to a non-combustion control device or series of control devices, the control device(s) must achieve an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 50 ppmv or less, and an outlet concentration of HCl and Cl<sub>2</sub> of 50 ppmv or less.

(5) *Planned routine maintenance.* The owner or operator is exempt from the specifications in paragraphs (c)(2) through (4) of this section during periods of planned routine maintenance of the control device that do not exceed 240 hr/yr. The owner or operator may submit an application to the Administrator requesting an extension of this time limit to a total of 360 hr/yr. The application must explain why the extension is needed, it must indicate that no material will be added to the storage vessel between the time the 240 hr limit is exceeded and the control device is again operational, and it must be submitted at least 60 days before the 240 hr limit will be exceeded.

(6) *Vapor Balancing Alternative.* As an alternative to the requirements in paragraphs (c)(2) and (3) of this section, the owner or operator of an existing or new affected source may implement vapor balancing in accordance with paragraphs (c)(6)(i) through (vii) of this section.

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

(ii) 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.

(iii) 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.

(iv) 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).

(v) Pressure relief devices on affected storage tanks must be set to no less than 2.5 psig at all times to prevent breathing losses. The owner or operator shall record the setting as specified in § 63.1367(b)(8) and comply with the following requirements for each pressure relief valve:

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

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

(C) 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 § 63.1363(g)(4)(i) through (iv).

(vi) Railcars or tank trucks that deliver HAP to an affected storage tank must be reloaded or cleaned at a facility that utilizes one of the following control techniques:

(A) The railcar or tank truck must be connected to a closed vent system with a control device that reduces inlet emissions of HAP by 90 percent by weight or greater; or

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

(vii) The owner or operator of the facility where the railcar or tank truck is reloaded or cleaned must comply with the following requirements:

(A) Submit to the owner or operator of the affected 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 affected 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.

(B) If complying with paragraph (c)(6)(vi)(A) of this section, demonstrate initial compliance in accordance with § 63.1365(d), demonstrate continuous compliance in accordance with § 63.1366, keep records as specified in § 63.1367, and prepare reports as specified in § 63.1368.

(C) If complying with paragraph (c)(6)(vi)(B) of this section, keep records of:

(1) The equipment to be used and the procedures to be followed when

reloading the railcar or tank truck and displacing vapors to the storage tank from which the liquid originates, and

(2) Each time the vapor balancing system is used to comply with paragraph (c)(6)(vi)(B) of this section.

(7) Compliance with the provisions of paragraphs (c)(2) and (3) of this section is demonstrated using the initial compliance procedures in § 63.1365(d) and the monitoring requirements in § 63.1366. Compliance with the outlet concentrations in paragraph (c)(4) of this section shall be determined by the initial compliance provisions in § 63.1365(a)(5) and the continuous emission monitoring requirements of § 63.1366(b)(5).

(d) *Wastewater.* The owner or operator of each affected source shall comply with the requirements of §§ 63.132 through 63.147, with the differences noted in paragraphs (d)(1) through (16) of this section for the purposes of this subpart.

\* \* \* \* \*

(2) When the storage tank requirements contained in §§ 63.119 through 63.123 are referred to in §§ 63.132 through 63.147, §§ 63.119 through 63.123 are applicable, with the exception of the differences noted in paragraphs (d)(2)(i) through (iv) of this section.

\* \* \* \* \*

(12) As an alternative to using Method 18 of 40 CFR part 60, as specified in §§ 63.139(c)(1)(ii) and 63.145(i)(2), the owner or operator may elect to use Method 25 or Method 25A of 40 CFR part 60, as specified in § 63.1365(b).

(13) The requirement to correct outlet concentrations from combustion devices to 3 percent oxygen in § 63.139(c)(1)(ii) shall apply only if supplemental gases are combined with affected vent streams, and the procedures in § 63.1365(a)(7)(i) apply instead of the procedures in § 63.145(i)(6) to determine the percent oxygen correction. If emissions are controlled with a vapor recovery system as specified in § 63.139(c)(2), the owner or operator must correct for supplemental gases as specified in § 63.1365(a)(7)(ii).

(14) As an alternative to the management and treatment options specified in § 63.132(g)(2), any Group 1 wastewater stream (or residual removed from a Group 1 wastewater stream) that contains less than 50 ppmw of HAP listed in Table 2 to subpart GGG of this part may be transferred offsite or to an on-site treatment operation not owned or operated by the owner or operator of the source generating the wastewater (or residual) if the transferee manages and treats the wastewater stream or residual

in accordance with paragraphs (d)(14)(i) through (iv) of this section.

(i) Treat the wastewater stream or residual in a biological treatment unit in accordance with §§ 63.138 and 63.145.

(ii) Cover the waste management units up to the activated sludge unit. Alternatively, covers are not required if the owner or operator demonstrates that less than 5 percent of the total HAP listed in Table 3 to subpart GGG of this part is emitted.

(iii) Inspect covers as specified in § 63.1366(h).

(iv) The reference in § 63.132(g)(2) to “§ 63.102(b) of subpart F” does not apply for the purposes of this subpart.

(15) When § 63.133 refers to Table 10 to subpart G of this part, the maximum true vapor pressures in the table shall be limited to the HAP listed in Table 9 to subpart G of this part.

(16) When the inspection, recordkeeping, and reporting requirements contained in § 63.148 are referred to in §§ 63.132 through 63.147, the inspection requirements in § 63.1366(h), the recordkeeping requirements in § 63.1367(f), and the reporting requirements in § 63.1368(g)(2)(iii) and (xi) shall apply for the purposes of this subpart.

\* \* \* \* \*

(h) \* \* \*

(2) Group 1 emission points that are controlled as specified in paragraphs (h)(2)(i) through (iii) of this section may not be used to calculate emissions averaging credits, unless a nominal efficiency has been assigned according to the procedures in § 63.150(i). The nominal efficiency must exceed the percent reduction required by paragraphs (b) and (c) of this section for process vents and storage vessels, respectively, exceed the percent reduction required in § 63.139(c) for control devices used to control emissions vented from waste management units, and exceed the percent reduction required in § 63.138(e) or (f) for wastewater treatment processes.

(i) Storage vessels controlled with an internal floating roof meeting the specifications of § 63.119(b), an external floating roof meeting the specifications of § 63.119(c), or an external floating roof converted to an internal floating meeting the specifications of § 63.119(d).

\* \* \* \* \*

(iii) Wastewater streams that are both managed in waste management units that are controlled as specified in §§ 63.133 through 63.137 and treated using a steam stripper meeting the specifications of § 63.138(d).

(3) Process vents and storage vessels controlled with a control device to an outlet concentration of 20 ppmv or 50 ppmv, as specified in paragraph (b)(2)(iv)(A), (b)(3)(ii), (b)(6), (c)(2)(iv)(B), or (c)(4) of this section, and wastewater streams controlled in a treatment unit to an outlet concentration of 50 ppmw, may not be used in any averaging group.

(4) Maintenance wastewater streams, wastewater streams treated in biological treatment units, and Group 2 wastewater streams that are not managed as specified in §§ 63.133 through 63.137 may not be included in any averaging group.

\* \* \* \* \*

5. Section 63.1363 is amended by:

a. Revising paragraph (a)(1);  
b. Revising paragraphs (a)(10)(ii) and (iii);

c.–d. Revising paragraphs (b)(3)(iii) (A) through (F), adding paragraph (b)(3)(iii)(G), and revising paragraph (b)(3)(w);

e. Revising paragraphs (c)(2)(i) and (iii);

f. Revising paragraph (c)(3)(i);  
g. Revising paragraph (c)(4)(ii);  
h. Revising paragraph (c)(5)

introductory text;

i. Revising paragraph (c)(5)(iv);  
j. Removing paragraphs (c)(5)(vi)(C) and (D);

k. Adding paragraph (c)(5)(vii);

l. Revising paragraph (c)(6);  
m. Revising paragraph (c)(9);  
n. Revising paragraph (e)(7)(iii);  
o. Revising paragraph (e)(9);  
p. Revising paragraph (f); and  
q. Revising paragraph (g)(2)(vi).

The revisions and additions read as follows:

**§ 63.1363 Standards for equipment leaks.**

(a) \* \* \*

(1) The provisions of this section apply to “equipment” as defined in § 63.1361. The provisions of this section also apply to any closed-vent systems and control devices required by this section.

\* \* \* \* \*

(10) \* \* \*

(ii) The identification on a valve in light liquid or gas/vapor service may be removed after it has been monitored as specified in paragraph (e)(7)(iii) of this section, and no leak has been detected during the follow-up monitoring. If an owner or operator elects to comply with § 63.174(c)(1)(i), the identification on a connector may be removed after it has been monitored as specified in § 63.174(c)(1)(i) and no leak is detected during that monitoring.

(iii) The identification on equipment, except as specified in paragraph

(a)(10)(ii) of this section, may be removed after it has been repaired.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(A) Section 63.174(b), (f), (g), and (h) shall not apply. In place of § 63.174(b), the owner or operator shall comply with paragraphs (b)(3)(iii)(C) through (G) of this section. In place of § 63.174(f), (g), and (h), the owner or operator shall comply with paragraph (f) of this section.

(B) Days that the connectors are not in organic HAP service shall not be considered part of the 3-month period in § 63.174(c).

(C) If the percent leaking connectors in a group of processes was greater than or equal to 0.5 percent during the initial monitoring period, monitoring shall be performed once per year until the percent leaking connectors is less than 0.5 percent.

(D) If the percent leaking connectors in the group of processes was less than 0.5 percent, but equal to or greater than 0.25 percent, during the last required monitoring period, monitoring shall be performed once every 4 years. An owner or operator may comply with the requirements of this paragraph by monitoring at least 40 percent of the connectors in the first 2 years and the remainder of the connectors within the next 2 years. The percent leaking connectors will be calculated for the total of all monitoring performed during the 4-year period.

(E) The owner or operator shall increase the monitoring frequency to once every 2 years for the next monitoring period if leaking connectors comprise at least 0.5 percent but less than 1.0 percent of the connectors monitored within either the 4 years specified in paragraph (b)(3)(iii)(D) of this section, the first 4 years specified in paragraph (b)(3)(iii)(G) of this section, or the entire 8 years specified in paragraph (b)(3)(iii)(G) of this section. At the end of that 2-year monitoring period, the owner or operator shall monitor once per year while the percent leaking connectors is greater than or equal to 0.5 percent; if the percent leaking connectors is less than 0.5 percent, the owner or operator may again elect to monitor in accordance with paragraph (b)(3)(iii)(D) or (G) of this section, as applicable.

(F) If an owner or operator complying with the requirements of paragraph (b)(3)(iii)(D) or (G) of this section for a group of processes determines that 1 percent or greater of the connectors are leaking, the owner or operator shall

increase the monitoring frequency to one time per year. The owner or operator may again elect to use the provisions of paragraph (b)(3)(iii)(D) or (G) of this section after a monitoring period in which less than 0.5 percent of the connectors are determined to be leaking.

(G) Monitoring shall be required once every 8 years, if the percent leaking connectors in the group of process units was less than 0.25 percent during the last required monitoring period. An owner or operator shall monitor at least 50 percent of the connectors in the first 4 years and the remainder of the connectors within the next 4 years. If the percent leaking connectors in the first 4 years is equal to or greater than 0.35 percent, the monitoring program shall revert at that time to the appropriate monitoring frequency specified in paragraph (b)(3)(iii)(D), (E), or (F) of this section.

(iv) Section 63.178, shall apply, except as specified in paragraphs (b)(3)(iv)(A) and (B) of this section.

(A) Section 63.178(b), requirements for pressure testing, shall apply to all processes, not just batch processes.

(B) For pumps, the phrase "at the frequencies specified in Table 1 of this subpart" in § 63.178(c)(3)(iii) shall mean "quarterly" for the purposes of this subpart.

\* \* \* \* \*

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

(i) *Monitoring.* Each pump and agitator subject to this section shall be monitored quarterly to detect leaks by the method specified in § 63.180(b), except as provided in § 63.177, § 63.178, paragraph (f) of this section, and paragraphs (c)(5) through (9) of this section.

\* \* \* \* \*

(iii) *Visual inspections.* Each pump and agitator shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump or agitator seal. If there are indications of liquids dripping from the seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either paragraph (c)(2)(iii)(A) or (B) of this section prior to the next weekly inspection.

(A) The owner or operator shall monitor the pump or agitator by the method specified in § 63.180(b). If the instrument reading indicates a leak as specified in paragraph (c)(2)(ii) of this section, a leak is detected.

(B) The owner or operator shall eliminate the visual indications of liquids dripping.

(3) \* \* \*

(i) When a leak is detected pursuant to paragraph (c)(2)(i), (c)(2)(iii)(A), (c)(5)(iv)(A), or (c)(5)(vi)(B) of this section, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in paragraph (b)(3)(i) of this section.

\* \* \* \* \*

(4) \* \* \*

(ii) If, calculated on a 1-year rolling average, 10 percent or more of the pumps in a group of processes (or 3 pumps in a group of processes with fewer than 30 pumps) leak, the owner or operator shall monitor each pump once per month, until the calculated 1-year rolling average value drops below 10 percent (or three pumps in a group of processes with fewer than 30 pumps).

\* \* \* \* \*

(5) *Exemptions.* Each pump or agitator equipped with a dual mechanical seal system that includes a barrier fluid system and meets the requirements specified in paragraphs (c)(5)(i) through (vii) is exempt from the requirements of paragraphs (c)(1) through (c)(4)(iii) of this section, except as specified in paragraphs (c)(5)(iv)(A) and (vii) of this section.

\* \* \* \* \*

(iv) Each pump/agitator is checked by visual inspection each calendar week for indications of liquids dripping from the pump/agitator seal. If there are indications of liquids dripping from the pump or agitator seal at the time of the weekly inspection, the owner or operator shall follow the procedures specified in either paragraph (c)(5)(iv)(A) or (B) of this section prior to the next required inspection.

(A) The owner or operator shall monitor the pump or agitator using the method specified in § 63.180(b) to determine if there is a leak of organic HAP in the barrier fluid. If the instrument reading indicates a leak, as specified in paragraph (c)(2)(ii) of this section, a leak is detected.

(B) The owner or operator shall eliminate the visual indications of liquids dripping.

\* \* \* \* \*

(vii) When a leak is detected pursuant to paragraph (c)(5)(iv)(A) or (vi)(B) of this section, the leak must be repaired as specified in paragraph (c)(3) of this section.

(6) Any pump/agitator that is designed with no externally actuated shaft penetrating the pump/agitator housing is exempt from the requirements of paragraphs (c)(1) through (3) of this section.

\* \* \* \* \*

(9) If more than 90 percent of the pumps in a group of processes meet the criteria in either paragraph (c)(5) or (6) of this section, the group of processes is exempt from the requirements of paragraph (c)(4) of this section.

\* \* \* \* \*

(e) \* \* \*

(7) \* \* \*

(iii) When a leak is repaired, the valve shall be monitored at least once within the first 3 months after its repair. Days that the valve is not in organic HAP service shall not be considered part of this 3-month period. The monitoring required by this paragraph is in addition to the monitoring required to satisfy the definitions of "repaired" and "first attempt at repair."

(A) The monitoring shall be conducted as specified in § 63.180(b) and (c) as appropriate, to determine whether the valve has resumed leaking.

(B) Periodic monitoring required by paragraphs (e)(2) through (4) of this section may be used to satisfy the requirements of paragraph (e)(7)(iii) of this section, if the timing of the monitoring period coincides with the time specified in paragraph (e)(7)(iii) of this section. Alternatively, other monitoring may be performed to satisfy the requirements of paragraph (e)(7)(iii) of this section, regardless of whether the timing of the monitoring period for periodic monitoring coincides with the time specified in paragraph (e)(7)(iii) of this section.

(C) If a leak is detected by monitoring that is conducted pursuant to paragraph (e)(7)(iii) of this section, the owner or operator shall follow the provisions of paragraphs (e)(7)(iii)(C)(1) and (2) of this section to determine whether that valve must be counted as a leaking valve for purposes of paragraph (e)(6) of this section.

(1) If the owner or operator elects to use periodic monitoring required by paragraphs (e)(2) through (4) of this section to satisfy the requirements of paragraph (e)(7)(iii) of this section, then the valve shall be counted as a leaking valve.

(2) If the owner or operator elects to use other monitoring prior to the periodic monitoring required by paragraphs (e)(2) through (4) of this section to satisfy the requirements of paragraph (e)(7)(iii) of this section, then the valve shall be counted as a leaking valve unless it is repaired and shown by periodic monitoring not to be leaking.

\* \* \* \* \*

(9) Any equipment located at a plant site with fewer than 250 valves in organic HAP service in the affected source is exempt from the requirements

for monthly monitoring specified in paragraph (e)(4)(i) of this section. Instead, the owner or operator shall monitor each valve in organic HAP service for leaks once each quarter, or comply with paragraphs (e)(4)(iii), (iv), or (v) of this section, except as provided in paragraph (f) of this section.

(f) *Unsafe to monitor, difficult-to-monitor, and inaccessible equipment.*

(1) Equipment that is designated as unsafe-to-monitor, difficult-to-monitor, or inaccessible is exempt from the requirements as specified in paragraphs (f)(1)(i) through (iv) of this section provided the owner or operator meets the requirements specified in paragraph (f)(2), (3), or (4) of this section, as applicable. All equipment, except connectors that meet the requirements in paragraph (f)(4) of this section, must be assigned to a group of processes. Ceramic or ceramic-lined connectors are subject to the same requirements as inaccessible connectors.

(i) For pumps and agitators, paragraphs (c)(2), (3), and (4) of this section do not apply.

(ii) For valves, paragraphs (e)(2) through (7) of this section do not apply.

(iii) For connectors, § 63.174(b) through (e) and paragraphs (b)(3)(iii)(C) through (G) of this section do not apply.

(iv) For closed-vent systems, § 63.172(f)(1), (f)(2), and (g) do not apply.

(2) *Equipment that is unsafe-to-monitor.*

(i) Valves, connectors, agitators, and any part of closed-vent systems may be designated as unsafe-to-monitor if the owner or operator determines that monitoring personnel would be exposed to an immediate danger as a consequence of complying with the monitoring requirements identified in paragraphs (f)(1)(i) through (iii) of this section, or the inspection requirements identified in paragraph (f)(1)(iv) of this section.

(ii) The owner or operator of equipment that is designated as unsafe-to-monitor must have a written plan that requires monitoring of the equipment as frequently as practicable during safe-to-monitor times. For valves, connectors, and agitators, monitoring shall not be more frequent than the periodic monitoring schedule otherwise applicable to the group of processes in which the equipment is located. For closed-vent systems, inspections shall not be more frequent than annually.

(3) *Equipment that is difficult-to-monitor.*

(i) A valve, agitator, pump, or any part of a closed-vent system may be designated as difficult-to-monitor if the owner or operator determines that the

equipment cannot be monitored or inspected without elevating the monitoring personnel more than 2 meters above a support surface or the equipment is not accessible in a safe manner when it is in organic HAP service;

(ii) At a new affected source, an owner or operator may designate no more than 3 percent of valves as difficult-to-monitor.

(iii) The owner or operator of valves, agitators, or pumps designated as difficult-to-monitor must have a written plan that requires monitoring of the equipment at least once per calendar year or on the periodic monitoring schedule otherwise applicable to the group of processes in which the equipment is located, whichever is less frequent. For any part of a closed-vent system designated as difficult-to-monitor, the owner or operator must have a written plan that requires inspection of the closed-vent system at least once every 5 years.

(4) *Inaccessible, ceramic, or ceramic-lined connectors.*

(i) A connector may be designated as inaccessible if it is:

(A) Buried;

(B) Insulated in a manner that prevents access to the equipment by a monitor probe;

(C) Obstructed by equipment or piping that prevents access to the equipment by a monitor probe;

(D) Unable to be reached from a wheeled scissor-lift or hydraulic-type scaffold which would allow access to equipment up to 7.6 meters above the ground; or

(E) Not able to be accessed at any time in a safe manner to perform monitoring. Unsafe access includes, but is not limited to, the use of a wheeled scissor-lift on unstable or uneven terrain, the use of a motorized man-lift basket in areas where an ignition potential exists, or access would require near proximity to hazards such as electrical lines, or would risk damage to equipment.

(F) Would require elevating the monitoring personnel more than 2 meters above a permanent support surface or would require the erection of scaffold.

(ii) At a new affected source, an owner or operator may designate no more than 3 percent of connectors as inaccessible.

(iii) If any inaccessible, ceramic, or ceramic-lined connector is observed by visual, audible, olfactory, or other means to be leaking, the leak shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in paragraph (b)(3)(i) of this section.

(iv) Any connector that is inaccessible or that is ceramic or ceramic-lined is exempt from the recordkeeping and reporting requirements of paragraphs (g) and (h) of this section.

(g) \* \* \*

(2) \* \* \*

(vi) A list of equipment designated as unsafe to monitor or difficult to monitor under paragraph (f) of this section and a copy of the plan for monitoring this equipment.

\* \* \* \* \*

#### § 63.1365 [Amended]

6. Section 63.1365 is amended by:

- a. Revising paragraph (a)(1)(iii);
- b. Revising paragraph (a)(2);
- c. Revising paragraph (a)(5);
- d. Revising paragraph (a)(6);
- e. Revising paragraph (a)(7)(i) introductory text;
- f. Revising paragraphs (a)(7)(i)(A) and (C);
- g. Revising paragraph (a)(7)(ii);
- h. Revising paragraph (b) introductory text;
- i. Revising paragraph (b)(8);
- j. Revising paragraph (b)(11) introductory text;
- k. Revising paragraph (b)(11)(iii) introductory text;
- l. Revising "paragraph (b)(1)(i)(B) of this section" to read "paragraph (b)(11)(i)(B) of this section" in the last sentence of paragraph (b)(11)(iii)(A);
- m. Adding paragraph (b)(11)(iii)(D);
- n. Revising paragraph (b)(11)(iv);
- o. Removing paragraph (b)(12);
- p. Revising paragraph (c)(1)(iii) and (v);
- q. Revising paragraph (c)(2)(i)(C);
- r. Revising paragraphs (c)(2)(i)(D)(4)(i) and (iii);
- s. Revising paragraphs (c)(2)(i)(E)(3) and (4);
- t. Revising paragraph (c)(2)(i)(F);
- u. Revising paragraph (c)(2)(ii) introductory text and paragraph (c)(2)(ii)(A);
- v. Revising paragraph (c)(3)(ii)(A);
- w. Revising paragraph (c)(3)(iii) introductory text;
- x. Revising paragraphs (d)(1)(i)(A) and (B);
- y. Revising paragraph (d)(3)(ii);
- z. Revising paragraph (e);
- aa. Revising "§ 63.1362(h)(2)" to read "§ 63.1362(g)(2)" and revising "§ 63.1362(h)(3)" to read "§ 63.1362(g)(3)" in paragraph (g) introductory text;
- bb. Revising "§ 63.1362(h)(2)" to read "§ 63.1362(g)(2)" in paragraph (g)(3)(i);
- cc. Revising "§ 63.1362(h)(3)(i)" to read "§ 63.1362(g)(3)(i)" in paragraph (g)(3)(ii);
- dd. Revising "§ 63.1362(h)(3)(ii)" to read "§ 63.1362(g)(3)(ii)" in paragraph (g)(4) introductory text;

ee. Revising “§ 63.1362(h)(3)(ii)(A)” to read “§ 63.1362(g)(3)(ii)(A)” in paragraph (g)(4)(i); and  
 ff. Revising “§ 63.1362(i)(3)(ii)(A)” to read “§ 63.1362(g)(3)(iii)(A)” in paragraph (g)(4)(ii).

The revisions and additions read as follows:

**§ 63.1365 Test methods and initial compliance procedures.**

(a) \* \* \*  
 (1) \* \* \*

(iii) For a condenser, the design evaluation must consider the vent stream flow rate, relative humidity, and temperature, and must establish the maximum temperature of the condenser exhaust vent stream and the corresponding outlet organic HAP compound concentration level or emission rate for which the required reduction is achieved.

\* \* \* \* \*

(2) *Calculation of TOC or total organic HAP concentration.* The TOC concentration or total organic HAP concentration is the sum of the concentrations of the individual components. If compliance is being determined based on TOC, the owner or operator shall compute TOC for each run using Equation 6 of this subpart. If compliance is being determined based on total organic HAP, the owner or operator shall compute total organic HAP using Equation 6 of this subpart, except that only organic HAP compounds shall be summed; when determining compliance with the wastewater provisions of § 63.1362(d), the organic HAP compounds shall consist of the organic HAP compounds in Table 9 of subpart G of this part.

$$CG_T = \frac{1}{m} \sum_{j=1}^m \left( \sum_{i=1}^n CGS_{i,j} \right) \quad (\text{Eq. 6})$$

Where:

CG<sub>T</sub>=total concentration of TOC in vented gas stream, average of samples, dry basis, ppmv  
 CGS<sub>i,j</sub>=concentration of sample components in vented gas stream for sample j, dry basis, ppmv  
 n=number of compounds in the sample  
 m=number of samples in the sample run  
 \* \* \* \* \*

(5) *Initial compliance with alternative standard.* Initial compliance with the alternative standards in § 63.1362(b)(6) and (c)(4) for combustion devices is demonstrated when the outlet TOC concentration is 20 ppmv or less, and the outlet HCl and chlorine concentration is 20 ppmv or less. Initial compliance with the alternative standards in § 63.1362(b)(6) and (c)(4)

for noncombustion devices is demonstrated when the outlet TOC concentration is 50 ppmv or less, and the outlet HCl and chlorine concentration is 50 ppmv or less. To demonstrate initial compliance, the owner or operator shall be in compliance with the monitoring provisions in § 63.1366(b)(5) on the initial compliance date. The owner or operator shall use Method 18 to determine the predominant organic HAP in the emission stream if the TOC monitor is calibrated on the predominant HAP.

(6) *Initial compliance with the 20 ppmv outlet limit.* Initial compliance with the 20 ppmv TOC or total organic HAP concentration is demonstrated when the outlet TOC or total organic HAP concentration is 20 ppmv or less. Initial compliance with the 20 ppmv HCl and chlorine concentration is demonstrated when the outlet HCl and chlorine concentration is 20 ppmv or less. To demonstrate initial compliance, the operator shall use applicable test methods described in paragraphs (b)(1) through (9) of this section, and test under conditions described in paragraphs (b)(10) or (11) of this section, as applicable. The owner or operator shall comply with the monitoring provisions in § 63.1366(b)(1) through (5) on the initial compliance date.

(7) \* \* \*

(i) *Combustion device.* Except as specified in § 63.1366(b)(5)(ii)(A), if the vent stream is controlled with a combustion device, the owner or operator must comply with the provisions in paragraphs (a)(7)(i)(A) through (C) of this section.

(A) To comply with a TOC or total organic HAP outlet concentration standard in § 63.1362(b)(2)(iv)(A), (b)(4)(ii)(A), (b)(6), (c)(2)(iv)(B), (c)(4), (d)(13), or § 63.172, the actual TOC outlet concentration must be corrected to 3 percent oxygen.

\* \* \* \* \*

(C) The integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A, shall be used to determine the actual oxygen concentration (%O<sub>2a</sub>). The samples shall be taken during the same time that the TOC, total organic HAP, and total HCl and chlorine samples are taken. The concentration corrected to 3 percent oxygen (C<sub>a</sub>) shall be computed using Equation 7 of this subpart:

$$C_c = C_m \left( \frac{17.9}{20.9 - \%O_{2d}} \right) \quad (\text{Eq. 7})$$

Where:

C<sub>c</sub>=concentration of TOC, total organic HAP, or total HCl and chlorine corrected to 3 percent oxygen, dry basis, ppmv  
 C<sub>m</sub>=total concentration of TOC, total organic HAP, or total HCl and chlorine in the vented gas stream, average of samples, dry basis, ppmv  
 %O<sub>2a</sub>=concentration of oxygen measured in vented gas stream, dry basis, percent by volume

(ii) *Noncombustion devices.* If a control device other than a combustion device, and not in series with a combustion device, is used to comply with a TOC, total organic HAP, or total HCl and chlorine outlet concentration standard, the owner or operator must correct the actual concentration for supplemental gases using Equation 8 of this subpart.

$$C_a = C_m \left( \frac{V_s + V_a}{V_a} \right) \quad (\text{Eq. 8})$$

Where:

C<sub>a</sub>=corrected outlet TOC, total organic HAP, or total HCl and chlorine concentration, dry basis, ppmv  
 C<sub>m</sub>=actual TOC, total organic HAP, or total HCl and chlorine concentration measured at control device outlet, dry basis, ppmv  
 V<sub>a</sub>=total volumetric flow rate of affected streams vented to the control device  
 V<sub>s</sub>=total volumetric flow rate of supplemental gases

(b) *Test methods and conditions.* When testing is conducted to measure emissions from an affected source, the test methods specified in paragraphs (b)(1) through (9) of this section shall be used. Compliance tests shall be performed under conditions specified in paragraphs (b)(10) and (11) of this section.

\* \* \* \* \*

(8) Wastewater analysis shall be conducted in accordance with § 63.144(b)(5)(i) through (iii) or as specified in paragraph (b)(8)(i) or (ii) of this section.

(i) As an alternative to the methods specified in § 63.144(b)(5)(i), an owner or operator may conduct wastewater analyses using Method 1666 or 1671 of 40 CFR part 136, appendix A, and comply with the sampling protocol requirements specified in § 63.144(b)(5)(ii). The validation requirements specified in § 63.144(b)(5)(iii) do not apply if an owner or operator uses Method 1666 or 1671 of 40 CFR part 136, appendix A.

(ii) As an alternative to the methods specified in § 63.144(b)(5)(i), an owner or operator may use procedures specified in Method 8260 or 8270 in

“Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication No. SW-846, Third Edition, September 1986, as amended by Update I, November 15, 1992. An owner or operator also may use any more recent, updated version of Method 8260 or 8270 approved by EPA. For the purpose of using Method 8260 or 8270 to comply with this subpart, the owner or operator must maintain a formal quality assurance program consistent with either Section 8 of Method 8260 or Method 8270. This program must include the elements related to measuring the concentrations of volatile compounds that are specified in paragraphs (b)(8)(ii)(A) through (C) of this section.

(A) Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, and preparation steps.

(B) Documentation of specific quality assurance procedures followed during sampling, sample preparation, sample introduction, and analysis.

(C) Measurement of the average accuracy and precision of the specific procedures, including field duplicates and field spiking of the material source before or during sampling with compounds having similar chemical characteristics to the target analytes.

\* \* \* \* \*

(11) *Testing conditions for batch processes.* Testing of emissions on equipment where the flow of gaseous emissions is intermittent (batch operations) shall be conducted at absolute peak-case conditions or hypothetical peak-case conditions, as specified in paragraphs (b)(11)(i) and (ii) of this section, respectively. Gas stream volumetric flow rates shall be measured at 15-minute intervals. Organic HAP, TOC, or HCl and chlorine concentration shall be determined from samples collected in an integrated sample over the duration of the test, or from grab samples collected simultaneously with the flow rate measurements (every 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. In all cases, a site-specific test plan shall be submitted to the

Administrator for approval prior to testing in accordance with § 63.7(c). The test plan shall include the emissions profile described in paragraph (b)(11)(iii) of this section. The term “HAP mass loading” as used in paragraphs (b)(11)(i) through (iii) of this section refers to the class of HAP, either organic or HCl and chlorine, that the control device is intended to control.

\* \* \* \* \*

(iii) *Emissions profile.* The owner or operator may choose to perform tests only during those periods of the peak-case episode(s) that the owner or operator selects to control as part of achieving the required emission reduction. Except as specified in paragraph (b)(11)(iii)(D) of this section, the owner or operator shall develop an emission profile for the vent to the control device that describes the characteristics of the vent stream at the inlet to the control device under either absolute or hypothetical peak-case conditions. The emissions profile shall be developed based on the applicable procedures described in paragraphs (b)(11)(iii)(A) through (C) of this section, as required by paragraphs (b)(11)(i) and (ii) of this section.

\* \* \* \* \*

(D) *Exemptions.* The owner or operator is not required to develop an emission profile under the circumstances described in paragraphs (b)(11)(iii)(D)(1) or (2) of this section.

(1) If all process vents for a process are controlled using a control device or series of control devices that reduce HAP emissions by 98 percent or more, no other emission streams are vented to the control device when it is used to control emissions from the subject process, and the performance test is conducted over the entire batch cycle.

(2) If a control device is used to comply with the outlet concentration limit for process vent emission streams from a single process (but not necessarily all of the process vents from that process), no other emission streams are vented to the control device while it is used to control emissions from the subject process, and the performance test is conducted over the entire batch cycle.

(iv) *Test duration.* Three runs, at a minimum of 1 hour each, are required for performance testing. Each test run

may be a maximum of either 24 hours or the duration of the longest batch controlled by the control device, whichever is shorter. Each run must include the same absolute or hypothetical peak-case conditions, as defined in paragraph (b)(11)(i) or (ii) of this section.

(c) \* \* \*

(1) \* \* \*

(iii) Initial compliance with the organic HAP percent reduction requirements specified in § 63.1362(b)(2)(ii), (b)(2)(iii), and (b)(4)(ii) is demonstrated by determining controlled HAP emissions using the procedures described in paragraph (c)(3) of this section, determining uncontrolled HAP emissions using the procedures described in paragraph (c)(2) of this section, and calculating the applicable percent reduction. As an alternative, if the conditions specified in paragraph (b)(11)(iii)(D)(1) of this section are met, initial compliance may be demonstrated by showing the control device reduces emissions by 98 percent by weight or greater using the procedures specified in paragraph (c)(3) of this section.

\* \* \* \* \*

(v) Initial compliance with the outlet concentration limits in § 63.1362(b)(2)(iv)(A), (b)(3)(ii), (b)(4)(ii)(A), (b)(5)(ii), and (b)(5)(iii) is demonstrated when the outlet TOC or total organic HAP concentration is 20 ppmv or less and the outlet HCl and chlorine concentration is 20 ppmv or less. The owner or operator shall demonstrate compliance by fulfilling the requirements in paragraph (a)(6) of this section. If an owner or operator elects to develop an emissions profile by process as described in paragraph (b)(11)(iii)(A) of this section, uncontrolled emissions shall be determined using the procedures in paragraph (c)(2) of this section.

\* \* \* \* \*

(2) \* \* \*

(i) \* \* \*

(C) *Purging.* Emissions from purging shall be calculated using Equation 10 of this subpart, except that for purge flow rates greater than 100 scfm, the mole fraction of HAP will be assumed to be 25 percent of the saturated value.

$$E = \sum_{i=1}^n P_i MW_i \times \frac{(V)(t)}{(R)(T)} \times \frac{P_T}{P_T - \sum_{j=1}^m (P_j)} \quad (\text{Eq. 10})$$

Where:	$P_j$ =partial pressure of individual condensable compounds (including HAP)	(D) * * *
$E$ =mass of HAP emitted	$P_T$ =pressure of the vessel vapor space	(4) * * *
$V$ =purge flow rate at the temperature and pressure of the vessel vapor space	$MW_i$ =molecular weight of the individual HAP	(i) As an alternative to the procedures described in paragraphs (c)(2)(i)(D)(1) and (2) of this section, emissions caused by heating a vessel to any temperature less than the boiling point may be calculated using Equation 15 of this subpart.
$R$ =ideal gas law constant	$t$ =time of purge	
$T$ =temperature of the vessel vapor space; absolute	$n$ =number of HAP compounds in the emission stream	
$P_i$ =partial pressure of the individual HAP	$m$ =number of condensable compounds (including HAP) in the emission stream	

$$E = MW_{HAP} \times \left( N_{avg} \times \ln \left( \frac{P_T - \sum_{i=1}^m (P_{i,1})}{P_T - \sum_{i=1}^m (P_{i,2})} \right) - (n_{HAP,2} - n_{HAP,1}) \right) \quad (\text{Eq. 15})$$

Where:	$P_{i,2}$ =partial pressure of the individual HAP compounds at $T_2$	$m$ = number of HAP compounds in the emission stream
$E$ =mass of HAP vapor displaced from the vessel being heated	$MW_{HAP}$ =average molecular weight of the HAP compounds, as calculated using Equation 14 of this subpart	* * * * *
$N_{avg}$ =average gas space molar volume during the heating process, as calculated using Equation 16 of this subpart	$n_{HAP,1}$ = number of moles of total HAP in the vessel headspace at $T_1$	(iii) The difference in the number of moles of total HAP in the vessel headspace between the initial and final temperatures is calculated using Equation 17 of this subpart.
$P_T$ =total pressure in the vessel	$n_{HAP,2}$ = number of moles of total HAP in the vessel headspace at $T_2$	
$P_{i,1}$ =partial pressure of the individual HAP compounds at $T_1$		

$$(n_{HAP,2} - n_{HAP,1}) = \frac{V}{(R)(T_2)} \sum_{i=1}^n P_{i,2} - \frac{V}{(R)(T_1)} \sum_{i=1}^n P_{i,1} \quad (\text{Eq. 17})$$

Where:	(3) The initial and final partial pressures of the noncondensable gas in the vessel are determined using Equations 21 and 22 of this subpart.	$P_2$ = final vessel pressure
$n_{HAP,2}$ = number of moles of total HAP in the vessel headspace at $T_2$	$P_{nc1} = P_1 - \sum_{j=1}^m (P_j^*)(x_j)$ (Eq. 21)	$P_j^*$ = vapor pressure of each condensable compound (including HAP) in the emission stream
$n_{HAP,1}$ = number of moles of total HAP in the vessel headspace at $T_1$	$P_{nc2} = P_2 - \sum_{j=1}^m (P_j^*)(x_j)$ (Eq. 22)	$x_j$ = mole fraction of each condensable compound (including HAP) in the liquid phase
$V$ = volume of free space in vessel	Where:	$m$ = number of condensable compounds (including HAP) in the emission stream
$R$ = ideal gas law constant	$P_{nc1}$ = initial partial pressure of the noncondensable gas	(4) The moles of HAP emitted during the depressurization are calculated by taking an approximation of the average ratio of moles of HAP to moles of noncondensable and multiplying by the total moles of noncondensables released during the depressurization, using Equation 23 of this subpart:
$T_1$ = initial temperature of the vessel contents, absolute	$P_{nc2}$ = final partial pressure of the noncondensable gas	
$T_2$ = final temperature of the vessel contents, absolute	$P_1$ = initial vessel pressure	
$P_{i,1}$ = partial pressure of the individual HAP compounds at $T_1$		
$P_{i,2}$ = partial pressure of the individual HAP compounds at $T_2$		
$n$ = number of HAP compounds in the emission stream		
(E) * * *		

$$n_{HAP,e} = \frac{\left( \frac{n_{HAP,1}}{n_1} + \frac{n_{HAP,2}}{n_2} \right)}{2} [n_1 - n_2] \quad (\text{Eq. 23})$$

Where:	$n_{HAP,1}$ = moles of HAP vapor in vessel at the initial pressure, as calculated using Equation 18 of this subpart	$n_{HAP,2}$ = moles of HAP vapor in vessel at the final pressure, as calculated using Equation 18 of this subpart
$n_{HAP,e}$ = moles of HAP emitted		

$n_1$  = initial number of moles of noncondensable gas in the vessel, as calculated using Equation 19 of this subpart

$n_2$  = final number of moles of noncondensable gas in the vessel, as calculated using Equation 19 of this subpart

(F) *Vacuum systems.* Calculate emissions from vacuum systems using Equation 26 of this subpart:

$$E = \frac{(MW_{HAP})(La)(t)}{MW_{nc}} \left( \frac{\sum_{i=1}^n P_i}{P_T - \sum_{j=1}^m P_j} \right) \quad (\text{Eq. 26})$$

Where:

- E = mass of HAP emitted
- $P_T$  = absolute pressure of receiving vessel or ejector outlet conditions, if there is no receiver
- $P_i$  = partial pressure of individual HAP at the receiver temperature or the ejector outlet conditions
- $P_j$  = partial pressure of individual condensable compounds (including HAP) at the receiver temperature or the ejector outlet conditions
- La = total air leak rate in the system, mass/time
- $MW_{nc}$  = molecular weight of noncondensable gas
- t = time of vacuum operation
- $MW_{HAP}$  = average molecular weight of HAP in the emission stream, as calculated using Equation 14 of this subpart, with HAP partial pressures calculated at the temperature of the receiver or ejector outlet, as appropriate
- n = number of HAP components in the emission stream
- m = number of condensable compounds (including HAP) in the emission stream

(ii) *Engineering assessments.* The owner or operator shall conduct an engineering assessment to determine uncontrolled HAP emissions for each emission episode that is not due to vapor displacement, purging, heating, depressurization, vacuum systems, gas evolution, or air drying. For a given emission episode caused by any of these seven types of activities, the owner or operator also may request approval to determine uncontrolled HAP emissions based on an engineering assessment. Except as specified in paragraph (c)(2)(ii)(A) of this section, all data, assumptions, and procedures used in the engineering assessment shall be documented in the Precompliance plan in accordance with § 63.1367(b). An engineering assessment includes, but is not limited to, the information and procedures described in paragraphs (c)(2)(ii)(A) through (D) of this section.

(A) Test results, provided the tests are representative of current operating

practices at the process unit. For process vents without variable emission stream characteristics, an engineering assessment based on the results of a previous test may be submitted in the Notification of Compliance Status report instead of the Precompliance plan. Results from a previous test of process vents with variable emission stream characteristics will be acceptable in place of values estimated using the procedures specified in paragraph (c)(2)(i) of this section if the test data show a greater than 20 percent discrepancy between the test value and the estimated value, and the results of the engineering assessment shall be included in the Notification of Compliance Status report. For other process vents with variable emission stream characteristics, engineering assessments based on the results of a previous test must be submitted in the Precompliance plan. For engineering assessments based on new tests, the owner or operator must comply with the test notification requirements in § 63.1368(m), and the results of the engineering assessment may be submitted in the Notification of Compliance Status report rather than the Precompliance plan.

(3) \* \* \*  
(ii) \* \* \*  
(A) Initial compliance with a percent reduction requirement for total organic HAP shall be determined by measuring either total organic HAP or TOC at the inlet and outlet of the control. Initial compliance with a percent reduction requirement for total HCl and chlorine shall be determined by measuring the HCl and chlorine at the inlet and outlet of the control device. All measurements shall be conducted using the test methods and procedures described in paragraph (b) of this section. Concentrations shall be calculated from the data obtained through emission testing according to the procedures in paragraph (a)(2) of this section.

(iii) *Condensers.* The owner or operator using a condenser as a control

device shall determine controlled emissions for each batch emission episode according to the engineering methodology in paragraphs (c)(3)(iii)(A) through (G) of this section. The owner or operator must measure the exhaust gas temperature and show that it is less than or equal to the temperature used in the applicable equation. Individual HAP partial pressures shall be calculated as specified in paragraph (c)(2)(i) of this section.

(d) \* \* \*  
(1) \* \* \*  
(i) \* \* \*  
(A) At the reasonably expected maximum filling rate, Equations 35 and 36 of this subpart shall be used to calculate the mass rate of total organic HAP or TOC at the inlet and outlet of the control device.

$$E_i = K_2 \left( \sum_{j=1}^n C_{ij} M_{ij} \right) Q_i \quad (\text{Eq. 35})$$

$$E_o = K_2 \left( \sum_{j=1}^n C_{oj} M_{oj} \right) Q_o \quad (\text{Eq. 36})$$

Where:

- $C_{ij}$ ,  $C_{oj}$  = concentration of sample component j of the gas stream at the inlet and outlet of the control device, respectively, dry basis, ppmv
- $E_i$ ,  $E_o$  = mass rate of total organic HAP or TOC at the inlet and outlet of the control device, respectively, dry basis, kg/hr
- $M_{ij}$ ,  $M_{oj}$  = molecular weight of sample component j of the gas stream at the inlet and outlet of the control device, respectively, g/gmole
- $Q_i$ ,  $Q_o$  = flow rate of gas stream at the inlet and outlet of the control device, respectively, dscmm
- $K_2$  = constant,  $2.494 \times 10^{-6}$  (parts per million)<sup>-1</sup> (gram-mole per standard cubic meter) (kilogram/gram) (minute/hour), where standard temperature is 20°C

(B) The percent reduction in total organic HAP or TOC shall be calculated using Equation 37 of this subpart:

$$R = \frac{E_i - E_o}{E_i} (100) \quad (\text{Eq. 37})$$

Where:

R=control efficiency of control device, percent

E<sub>i</sub>=mass rate of total organic HAP or TOC at the inlet to the control device as calculated under paragraph (d)(1)(i)(A) of this section, kilograms organic HAP per hour

E<sub>o</sub>=mass rate of total organic HAP or TOC at the outlet of the control device, as calculated under paragraph (d)(1)(i)(A) of this section, kilograms organic HAP per hour

\* \* \* \* \*

(3) \* \* \*

(ii) Comply with the procedures described in § 63.120(a), (b), or (c), as applicable, with the differences specified in paragraphs (d)(3)(ii)(A) through (C) of this section.

(A) When the term “storage vessel” is used in § 63.120, the definition of the term “storage vessel” in § 63.1361 shall apply for the purposes of this subpart.

(B) When the phrase “the compliance date specified in § 63.100 of subpart F of this part” is referred to in § 63.120, the phrase “the compliance date specified in § 63.1364” shall apply for the purposes of this subpart.

(C) When the phrase “the maximum true vapor pressure of the total organic HAP in the stored liquid falls below the values defining Group 1 storage vessels specified in Table 5 or Table 6 of this subpart” is referred to in § 63.120(b)(1)(iv), the phrase “the maximum true vapor pressure of the total organic HAP in the stored liquid falls below the values defining Group 1 storage vessels specified in § 63.1361” shall apply for the purposes of this subpart.

\* \* \* \* \*

(e) *Initial compliance with wastewater provisions.* The owner or operator shall demonstrate initial compliance with the wastewater requirements by complying with the applicable provisions in § 63.145, except that the owner or operator need not comply with the requirement to determine visible emissions that is specified in § 63.145(j)(1), and references to compounds in Table 8 of subpart G of this part are not applicable for the purposes of this subpart. When § 63.145(i) refers to Method 18 of 40 CFR part 60, the owner or operator may use any method specified in

§ 63.1362(d)(12) to demonstrate initial compliance with this subpart.

\* \* \* \* \*

7. Section 63.1366 is amended by:

- a. Revising paragraph (b)(5);
- b. Revising the first sentence of paragraph (b)(8) introductory text;
- c. Revising paragraph (b)(8)(iii); and
- d. Adding paragraph (h).

The revisions and additions read as follows:

**§ 63.1366 Monitoring and inspection requirements.**

\* \* \* \* \*

(b) \* \* \*

(5) *Monitoring for the alternative standards.*

(i) For control devices that are used to comply with the provisions of § 63.1362(b)(6) and (c)(4), the owner or operator shall monitor and record the outlet TOC concentration and the outlet total HCl and chlorine concentration at least once every 15 minutes during the period in which the device is controlling HAP from emission streams subject to the standards in § 63.1362. A TOC monitor meeting the requirements of Performance Specification 8 or 9 of appendix B of 40 CFR part 60 shall be installed, calibrated, and maintained, according to § 63.8. The owner or operator need not monitor the total HCl and chlorine concentration if the owner or operator determines that the emission stream does not contain HCl or chlorine. The owner or operator need not monitor for TOC concentration if the owner or operator determines that the emission stream does not contain organic compounds.

(ii) If supplemental gases are introduced before the control device, the owner or operator must either correct for supplemental gases as specified in § 63.1365(a)(7) or, if using a combustion control device, comply with the requirements of paragraph (b)(5)(ii)(A) of this section. If the owner or operator corrects for supplemental gases as specified in § 63.1365(a)(7)(ii) for non-combustion control devices, the flow rates must be evaluated as specified in paragraph (b)(5)(ii)(B) of this section.

(A) *Provisions for combustion devices.* As an alternative to correcting for supplemental gases as specified in § 63.1365(a)(7), the owner or operator may monitor residence time and firebox temperature according to the requirements of paragraphs (b)(5)(ii)(A)(1) and (2) of this section. Monitoring of residence time may be accomplished by monitoring flow rate into the combustion chamber.

(1) If complying with the alternative standard instead of achieving a control

efficiency of 95 percent or less, the owner or operator must maintain a minimum residence time of 0.5 seconds and a minimum combustion chamber temperature of 760°C.

(2) If complying with the alternative standard instead of achieving a control efficiency of 98 percent or less, the owner or operator must maintain a minimum residence time of 0.75 seconds and a minimum combustion chamber temperature of 816°C.

(B) *Flow rate evaluation for non-combustion devices.* To demonstrate continuous compliance with the requirement to correct for supplemental gases as specified in § 63.1365(a)(7)(ii) for non-combustion devices, the owner or operator must evaluate the volumetric flow rate of supplemental gases, V<sub>s</sub>, and the volumetric flow rate of all gases, V<sub>a</sub>, each time a new operating scenario is implemented based on process knowledge and representative operating data. The procedures used to evaluate the flow rates, and the resulting correction factor used in Equation 8 of this subpart, must be included in the Notification of Compliance Status report and in the next Periodic report submitted after an operating scenario change.

\* \* \* \* \*

(8) *Violations.* Exceedances of parameters monitored according to the provisions of paragraphs (b)(1)(ii), (iv) through (ix), and (b)(5)(i)(A) of this section, or excursions as defined by paragraphs (b)(7)(i) and (ii) of this section, constitute violations of the operating limit according to paragraphs (b)(8)(i), (ii), and (iv) of this section.

\* \* \*

\* \* \* \* \*

(iii) Except as provided in paragraph (b)(8)(iv) of this section, exceedances of the 20 or 50 ppmv TOC outlet emission limit, averaged over the operating day, will result in no more than one violation per day per control device. Except as provided in paragraph (b)(8)(iv) of this section, exceedances of the 20 or 50 ppmv HCl and chlorine outlet emission limit, averaged over the operating day, will result in no more than one violation per day per control device.

\* \* \* \* \*

(h) *Leak inspection provisions for vapor suppression equipment.*

(1) Except as provided in paragraphs (h)(9) and (10) of this section, for each vapor collection system, closed-vent system, fixed roof, cover, or enclosure required to comply with this section, the owner or operator shall comply with the requirements of paragraphs (h)(2) through (8) of this section.

(2) Except as provided in paragraphs (h)(6) and (7) of this section, each vapor collection system and closed-vent system shall be inspected according to the procedures and schedule specified in paragraphs (h)(2)(i) and (ii) of this section and each fixed roof, cover, and enclosure shall be inspected according to the procedures and schedule specified in paragraph (h)(2)(iii) of this section.

(i) If the vapor collection system or closed-vent system is constructed of hard-piping, the owner or operator shall:

(A) Conduct an initial inspection according to the procedures in paragraph (h)(3) of this section, and

(B) Conduct annual visual inspections for visible, audible, or olfactory indications of leaks.

(ii) If the vapor collection system or closed-vent system is constructed of ductwork, the owner or operator shall:

(A) Conduct an initial inspection according to the procedures in paragraph (h)(3) of this section,

(B) Conduct annual inspections according to the procedures in paragraph (h)(3) of this section, and

(C) Conduct annual visual inspections for visible, audible, or olfactory indications of leaks.

(iii) For each fixed roof, cover, and enclosure, the owner or operator shall:

(A) Conduct an initial inspection according to the procedures in paragraph (h)(3) of this section, and

(B) Conduct semiannual visual inspections for visible, audible, or olfactory indications of leaks.

(3) Each vapor collection system, closed-vent system, fixed roof, cover, and enclosure shall be inspected according to the procedures specified in paragraphs (h)(3)(i) through (vi) of this section.

(i) Inspections shall be conducted in accordance with Method 21 of 40 CFR part 60, appendix A.

(ii) *Detection instrument performance criteria.*

(A) Except as provided in paragraph (h)(3)(ii)(B) of this section, the detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the process fluid not each individual VOC in the stream.

For process streams that contain nitrogen, air, or other inerts which are not organic HAP or VOC, the average stream response factor shall be calculated on an inert-free basis.

(B) If no instrument is available at the plant site that will meet the performance criteria specified in

paragraph (h)(3)(ii)(A) of this section, the instrument readings may be adjusted by multiplying by the average response factor of the process fluid, calculated on an inert-free basis as described in paragraph (h)(3)(ii)(A) of this section.

(iii) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(iv) Calibration gases shall be as follows:

(A) Zero air (less than 10 parts per million hydrocarbon in air); and

(B) Mixtures of methane in air at a concentration less than 10,000 parts per million. A calibration gas other than methane in air may be used if the instrument does not respond to methane or if the instrument does not meet the performance criteria specified in paragraph (h)(2)(ii)(A) of this section. In such cases, the calibration gas may be a mixture of one or more of the compounds to be measured in air.

(v) An owner or operator may elect to adjust or not adjust instrument readings for background. If an owner or operator elects to not adjust readings for background, all such instrument readings shall be compared directly to the applicable leak definition to determine whether there is a leak. If an owner or operator elects to adjust instrument readings for background, the owner or operator shall measure background concentration using the procedures in § 63.180(b) and (c). The owner or operator shall subtract background reading from the maximum concentration indicated by the instrument.

(vi) The arithmetic difference between the maximum concentration indicated by the instrument and the background level shall be compared with 500 parts per million for determining compliance.

(4) Leaks, as indicated by an instrument reading greater than 500 parts per million above background or by visual inspections, shall be repaired as soon as practicable, except as provided in paragraph (h)(5) of this section.

(i) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected.

(ii) Repair shall be completed no later than 15 calendar days after the leak is detected.

(5) Delay of repair of a vapor collection system, closed-vent system, fixed roof, cover, or enclosure for which leaks have been detected is allowed if the repair is technically infeasible without a shutdown, as defined in § 63.1361, or if the owner or operator determines that emissions resulting

from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment shall be complete by the end of the next shutdown.

(6) Any parts of the vapor collection system, closed-vent system, fixed roof, cover, or enclosure that are designated, as described in § 63.1367(f)(1), as unsafe-to-inspect are exempt from the inspection requirements of paragraphs (h)(2)(i), (ii), and (iii) of this section if:

(i) The owner or operator determines that the equipment is unsafe to inspect because inspecting personnel would be exposed to an imminent or potential danger as a consequence of complying with paragraph (h)(2)(i), (ii), or (iii) of this section; and

(ii) The owner or operator has a written plan that requires inspection of the equipment as frequently as practicable during safe-to-inspect times. Inspection is not required more than once annually.

(7) Any parts of the vapor collection system, closed-vent system, fixed roof, cover, or enclosure that are designated, as described in § 63.1367(f)(2), as difficult-to-inspect are exempt from the inspection requirements of paragraphs (h)(2)(i), (ii), and (iii)(A) of this section if:

(i) The owner or operator determines that the equipment cannot be inspected without elevating the inspecting personnel more than 2 meters above a support surface; and

(ii) The owner or operator has a written plan that requires inspection of the equipment at least once every 5 years.

(8) Records shall be maintained as specified in § 63.1367(f).

(9) If a closed-vent system subject to this section is also subject to the equipment leak provisions of § 63.1363, the owner or operator shall comply with the provisions of § 63.1363 and is exempt from the requirements of this section.

(10) For any closed-vent system that is operated and maintained under negative pressure, the owner or operator is not required to comply with the requirements specified in paragraphs (h)(2) through (8) of this section.

8. Section 63.1367 is amended by:

a. Revising “paragraphs (b)(3)(i) through (iii) of this section” to read “paragraphs (a)(3)(i) through (iii) of this section” in paragraph (a)(3) introductory text;

b. Revising paragraph (a)(3)(i);

c. Revising paragraph (b) introductory text;

d. Revising paragraph (b)(4);

e. Revising paragraph (b)(6)(i);

f. Adding paragraph (b)(6)(ix) and revising paragraph (b)(7);

g. Adding paragraphs (b)(8) through (11); and

h. Revising paragraph (f).

The revisions and additions read as follows:

**§ 63.1367 Recordkeeping requirements.**

(a) \* \* \*

(3) \* \* \*

(i) The owner or operator shall record the occurrence and duration of each malfunction of the process operations or of air pollution control equipment used to comply with this subpart, as specified in § 63.6(e)(3)(iii).

\* \* \* \* \*

(b) *Records of equipment operation.* The owner or operator must keep the records specified in paragraphs (b)(1) through (11) of this section up-to-date and readily accessible.

\* \* \* \* \*

(4) For processes in compliance with the 0.15 Mg/yr emission limit of § 63.1362(b)(2)(i) or (b)(4)(i), daily records of the rolling annual calculations of uncontrolled emissions.

\* \* \* \* \*

(6) \* \* \*

(i) Except as specified in paragraph (b)(6)(ix) of this section, the initial calculations of uncontrolled and controlled emissions of gaseous organic HAP and HCl per batch for each process.

\* \* \* \* \*

(ix) As an alternative to the records in paragraph (b)(6)(i) of this section, a record of the determination that the conditions in § 63.1365(b)(11)(iii)(D)(1) or (2) are met.

(7) Daily schedule or log of each operating scenario updated daily or, at a minimum, each time a different operating scenario is put into operation.

(8) If the owner or operator elects to comply with the vapor balancing alternative in § 63.1362(c)(6), the owner or operator must keep records of the DOT certification required by § 63.1362(c)(6)(ii) and the pressure relief vent setting and leak detection records specified in § 63.1362(c)(6)(v).

(9) If the owner or operator elects to develop process unit groups, the owner or operator must keep records of the PAI and non-PAI process units in the process unit group, including records of the operating time for process units used to establish the process unit group. The owner or operator must also keep records of any redetermination of the primary product for the process unit group.

(10) All maintenance performed on the air pollution control equipment.

(11) If the owner or operator elects to comply with § 63.1362(c) by installing a

floating roof, the owner or operator must keep records of each inspection and seal gap measurement in accordance with § 63.123(c) through (e) as applicable.

\* \* \* \* \*

(f) *Records of inspections.* The owner or operator shall keep records specified in paragraphs (f)(1) through (6) of this section.

(1) Records identifying all parts of the vapor collection system, closed-vent system, fixed roof, cover, or enclosure that are designated as unsafe to inspect in accordance with § 63.1366(h)(6), an explanation of why the equipment is unsafe-to-inspect, and the plan for inspecting the equipment.

(2) Records identifying all parts of the vapor collection system, closed-vent system, fixed roof, cover, or enclosure that are designated as difficult-to-inspect in accordance with § 63.1366(h)(7), an explanation of why the equipment is difficult-to-inspect, and the plan for inspecting the equipment.

(3) For each vapor collection system or closed-vent system that contains bypass lines that could divert a vent stream away from the control device and to the atmosphere, the owner or operator shall keep a record of the information specified in either paragraph (f)(3)(i) or (ii) of this section.

(i) Hourly records of whether the flow indicator specified under § 63.1362(j)(1) was operating and whether a diversion was detected at any time during the hour, as well as records of the times and durations of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(ii) Where a seal mechanism is used to comply with § 63.1362(j)(2), hourly records of flow are not required. In such cases, the owner or operator shall record that the monthly visual inspection of the seals or closure mechanisms has been done and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

(4) For each inspection conducted in accordance with § 63.1366(h)(2) and (3) during which a leak is detected, a record of the information specified in paragraphs (f)(4)(i) through (ix) of this section.

(i) Identification of the leaking equipment.

(ii) The instrument identification numbers and operator name or initials, if the leak was detected using the procedures described in § 63.1366(h)(3);

or a record of that the leak was detected by sensory observations.

(ii) The date the leak was detected and the date of the first attempt to repair the leak.

(iii) Maximum instrument reading measured by the method specified in § 63.1366(h)(4) after the leak is successfully repaired or determined to be nonreparable.

(iv) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(v) The name, initials, or other form of identification of the owner or operator (or designee) whose decision it was that repair could not be effected without a shutdown.

(vi) The expected date of successful repair of the leak if a leak is not repaired within 15 calendar days.

(vii) Dates of shutdowns that occur while the equipment is unrepaired.

(viii) The date of successful repair of the leak.

(5) For each inspection conducted in accordance with § 63.1366(h)(3) during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

(6) For each visual inspection conducted in accordance with § 63.1366(h)(2)(i)(B) or (h)(2)(iii)(B) of this section during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.

\* \* \* \* \*

9. Section 63.1368 is amended by:

a. Revising paragraph (e) (4);  
b. Revising paragraph (f) (6);  
c. Adding paragraph (f) (9);  
d. Revising paragraph (g) (1) introductory text;

e. Revising paragraph (g) (2) introductory text;  
f. Adding paragraphs (g)(2)(ix) through (xii);

g. Revising paragraph (h)(1) introductory text;

h. Revising "§ 63.1365(b)(10)(ii)" to read "§ 63.1365(b)(11)(iii)" in paragraph (m).

The revisions and additions read as follows:

**§ 63.1368 Reporting requirements.**

\* \* \* \* \*

(e) \* \* \*

(4) For owners and operators complying with the requirements of § 63.1362(g), the pollution prevention demonstration summary required in § 63.1365(g)(1).

\* \* \* \* \*

(f) \* \* \*  
 (6) Identification of emission points subject to overlapping requirements described in § 63.1360(i) and the authority under which the owner or operator will comply, and identification of emission sources discharging to devices described by § 63.1362(l).  
 \* \* \* \* \*

(9) Records of the initial process units used to create each process unit group, if applicable.

(g) \* \* \*  
 (1) *Submittal schedule.* Except as provided in paragraphs (g)(1)(i) and (ii) of this section, the owner or operator shall submit Periodic reports semiannually. The first report shall be submitted no later than 240 days after the date the Notification of Compliance Status report is due and shall cover the 6-month period beginning on the date the Notification of Compliance Status report is due. Each subsequent Periodic report shall cover the 6-month period

following the preceding period and shall be submitted no later than 60 days after the end of the applicable period.  
 \* \* \* \* \*

(2) *Content of periodic report.* The owner or operator shall include the information in paragraphs (g)(2)(i) through (xii) of this section, as applicable.  
 \* \* \* \* \*

(ix) Records of process units added to each process unit group, if applicable.

(x) Records of redetermination of the primary product for a process unit group.

(xi) For each inspection conducted in accordance with § 63.1366(h)(2) or (3) during which a leak is detected, the records specify in § 63.1367(h)(4) must be included in the next Periodic report.

(xii) If the owner or operator elects to comply with the provisions of § 63.1362(c) by installing a floating roof, the owner or operator shall submit the information specified in § 63.122(d)

through (f) as applicable. References to § 63.152 from § 63.122 shall not apply for the purposes of this subpart.

(h) \* \* \*  
 (1) Except as specified in paragraph (h)(2) of this section, whenever a process change is made, or any of the information submitted in the Notification of Compliance Status report changes, the owner or operator shall submit the information specified in paragraphs (h)(1)(i) through (iv) of this section with the next Periodic report required under paragraph (g) of this section. For the purposes of this section, a process change means the startup of a new process, as defined in § 63.1361.  
 \* \* \* \* \*

10. Table 1 to subpart MMM is amended by:  
 a. Revising the entry “63.9(i)–(j);” and  
 b. Adding the entry “63.9(j)”.  
 The revisions and additions read as follows:

TABLE 1 TO SUBPART MMM OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART MMM

Reference to subpart A	Applies to subpart MMM	Explanation
* * * * *	* * * * *	* * * * *
63.9(i) .....	Yes	
63.9(j) .....	No	§ 63.1368(h) specifies procedures for notification of changes.
* * * * *	* * * * *	* * * * *

11. Table 4 to subpart MMM is revised to read as follows:

TABLE 4 TO SUBPART MMM.—CONTROL REQUIREMENTS FOR ITEMS OF EQUIPMENT THAT MEET THE CRITERIA OF § 63.1362(K)

Item of equipment	Control requirement <sup>a</sup>
Drain or drain hub .....	(a) Tightly fitting solid cover (TFSC); or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.139(c); or (c) Water seal with submerged discharge or barrier to protect discharge from wind.
Manhole <sup>b</sup> .....	(a) TFSC; or (b) TFSC with a vent to either a process or to a control device meeting the requirements of § 63.139(c); or (c) If the item is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter.
Lift station .....	(a) TFSC; or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.139(c); or (c) If the lift station is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter. The lift station shall be level controlled to minimize changes in the liquid level.
Trench .....	(a) TFSC; or (b) TFSC with a vent to either a process, or to a control device meeting the requirements of § 63.139(c); or (c) If the item is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter.
Pipe .....	Each pipe shall have no visible gaps in joints, seals, or other emission interfaces.
Oil/Water separator .....	(a) Equip with a fixed roof and route vapors to a process, or equip with a closed-vent system that routes vapors to a control device meeting the requirements of § 63.139(c); or (b) Equip with a floating roof that meets the equipment specifications of § 60.693 (a)(1)(i), (a)(1)(ii), (a)(2), (a)(3), and (a)(4).

TABLE 4 TO SUBPART MMM.—CONTROL REQUIREMENTS FOR ITEMS OF EQUIPMENT THAT MEET THE CRITERIA OF § 63.1362(K)—Continued

Item of equipment	Control requirement <sup>a</sup>
Tank .....	Maintain a fixed roof and consider vents as process vents. <sup>c</sup>

<sup>a</sup> Where a tightly fitting solid cover is required, it shall be maintained with no visible gaps or openings, except during periods of sampling, inspection, or maintenance.

<sup>b</sup> Manhole includes sumps and other points of access to a conveyance system.

<sup>c</sup> A fixed roof may have openings necessary for proper venting of the tank, such as pressure/vacuum vent, j-pipe vent.

[FR Doc. 02-7223 Filed 4-9-02; 8:45 am]

BILLING CODE 6560-50-P