ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2003–0194; FRL–9975–21–OAR]

RIN 2060–AT70

National Emission Standards for Hazardous Air Pollutants: Leather Finishing Operations Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Leather Finishing Operations to address the results of the residual risk and technology review (RTR) that the EPA is required to conduct in accordance with section 112 of the Clean Air Act (CAA). We found risks due to emissions of air toxics to be acceptable from this source category and determined that the current NESHAP provides an ample margin of safety to protect public health. We identified no new cost-effective controls under the technology review to achieve further emissions reductions. Therefore, we are proposing no revisions to the numerical emission limits based on these analyses. However, the EPA is proposing amendments to regulatory provisions pertaining to emissions during periods of startup, shutdown, and malfunction (SSM); amendments to add electronic reporting; and amendments to clarify certain rule requirements and provisions. While the proposed amendments would not result in reductions in emissions of hazardous air pollutants (HAP), this action, if finalized, would result in improved compliance and implementation of the rule.

DATES: *Comments.* Comments must be received on or before April 30, 2018. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before April 13, 2018.

Public Hearing. If a public hearing is requested by March 19, 2018, then we will hold a public hearing on March 29, 2018 at the location described in the **ADDRESSES** section. The last day to pre-register in advance to speak at the public hearing will be March 27, 2018.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0194, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov. Regulations.gov* is our preferred method of receiving comments. However, other submission formats are accepted. To ship or send mail via the United States Postal Service, use the following address: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2003–0194, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Use the following Docket Center address if you are using express mail, commercial delivery, hand delivery, or courier: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. Delivery verification signatures will be available only during regular business hours.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. See section I.C of this preamble for instructions on submitting CBI.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system).

For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

Public Hearing. If a public hearing is requested, it will be held at EPA Headquarters, EPA WJC East Building, 1201 Constitution Avenue NW, Washington, DC 20004. If a public hearing is requested, then we will provide details about the public hearing on our Web site at: *https://www.epa.gov/stationary-sources-air-pollution/leather-finishing-operations-national-emission-standards-hazardous.* The EPA does not intend to publish another document in the **Federal Register** announcing any updates on the request for a public hearing. Please contact Ms. Aimee St. Clair at (919) 541–1063 or by email at *StClair.Aimee@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

The EPA will make every effort to accommodate all speakers who arrive and register. If a hearing is held at a U.S. government facility, individuals planning to attend should be prepared to show a current, valid state- or federal-approved picture identification to the security staff in order to gain access to the meeting room. An expired form of identification will not be permitted. Please note that the Real ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by a noncompliant state, you must present an additional form of identification to enter a federal facility. Acceptable alternative forms of identification include: Federal employee badge, passports, enhanced driver's licenses, and military identification cards. Additional information on the Real ID Act is available at *https://www.dhs.gov/real-id-frequently-asked-questions.* In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building, and demonstrations will not be allowed on federal property for security reasons.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. Bill Schrock, Natural Resources Group, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5032; fax number: (919) 541–0516; and email address: *schrock.bill@epa.gov.* For specific information regarding the risk modeling methodology, contact Matthew Woody, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1535; fax number: (919) 541–0840; and email address: *woody.matthew@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW,

Washington DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2003–0194. All documents in the docket are listed in the *Regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0194. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. This type of information should be submitted by mail as discussed in section 1.C of this preamble. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Preamble Acronyms and Abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEGL acute exposure guideline level
AERMOD air dispersion model used by the HEM–3 model
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guidelines
FR Federal Register
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HEM–3 Human Exposure Model
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
ICR information collection request
IRIS Integrated Risk Information System
km kilometer
MACT maximum achievable control technology
mg/m3 milligrams per cubic meter
MIR maximum individual risk
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
QA/QC quality assurance/quality control
RBLC RACT/BACT/LAER Clearinghouse
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTO regenerative thermal oxidizer
RTR residual risk and technology review
SAB Science Advisory Board
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
TSD technical support document
UF uncertainty factor
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
VCS voluntary consensus standards

Organization of this Document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source category that is the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. On July 16, 1992, we published an initial list of source categories to be regulated (57 FR 31576), *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990.* The Leather Tanning and Finishing Operations source category was not included on the initial list, but was added by an update to the list on June 4, 1996 (61 FR 28207), *Revision of Initial List of Categories of Sources and Schedule for Standards Under Sections 112(c) and (e) of the Clean Air Act Amendments of 1990.* On October 2, 2000, we proposed a NESHAP for the Leather Finishing Operations source category (65 FR 58702). The final rule was promulgated on February 27, 2002 (67 FR 9156) (henceforth referred to as the ''Leather Finishing NESHAP''), which modified the listing of this source category by deleting tanning facilities from the definition and renaming the source category ''Leather Finishing Operations.'' The *Revision of Initial List of Categories of Sources and Schedule for Standards Under Sections 112(c) and (e) of the Clean Air Act Amendments of 1990* (see 61 FR 28197, 28202, June 4, 1996), describes the Leather Finishing Operations source category as ''any facility or process engaged in conditioning and enhancement processes that give tanned leather distinctive and desirable qualities required by end users of the material.''

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

NESHAP and source category	NAICS code [1]
Leather Finishing Operations	3161

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *http://www.epa.gov/stationary-sources-air-pollution/leather-finishing-operations-national-emission-standards-hazardous.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same Web site. Information on the overall RTR program is available at *http://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2003–0194).

C. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2003–0194.

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of HAP from stationary sources. Generally, the first stage involves establishing technology-based standards and the second stage involves evaluating so-called maximum achievable control technology (MACT) standards to determine whether additional standards are needed to further address any remaining risk associated with HAP emissions. This second stage is commonly referred to as the ''residual risk review.'' In addition to the residual risk review, the CAA also requires the EPA to review standards set under CAA section 112 every 8 years to determine if there are ''developments in practices, processes, or control technologies'' that may be appropriate to incorporate into the standards. This review is commonly referred to as the ''technology review.'' When the two reviews are combined into a single rulemaking, it is commonly referred to as the ''risk and technology review.'' The discussion that follows identifies the most relevant statutory sections and briefly explains the contours of the methodology used to implement these statutory requirements. A more comprehensive discussion appears in the document titled *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology* in the docket for this rulemaking.

In the first stage of the CAA section 112 standard setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). Sources of HAP emissions are either major sources or area sources, and CAA section 112 establishes different requirements for major source standards and area source standards. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. All other sources are ''area sources.'' For major sources, CAA section 112(d) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor.'' The EPA must also consider control options that are more stringent than the floor. Standards more stringent

than the floor are commonly referred to as ''beyond-the-floor'' standards. In certain instances, as provided in CAA section 112(h), the EPA may set work practice standards where it is not feasible to prescribe or enforce a numerical emission standard. For area sources, CAA section 112(d)(5) gives the EPA discretion to set standards based on generally available control technologies or management practices (GACT standards) in lieu of MACT standards.

The second stage in standard-setting focuses on identifying and addressing any remaining (*i.e.,* ''residual'') risk according to CAA section 112(f). Section 112(f)(2) of the CAA requires the EPA to determine for source categories subject to MACT standards whether promulgation of additional standards is needed to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect. Section 112(d)(5) of the CAA provides that this residual risk review is not required for categories of area sources subject to GACT standards. Section 112(f)(2)(B) of the CAA further expressly preserves the EPA's use of the two-step process for developing standards to address any residual risk and the Agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the Risk Report that the Agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and the United States Court of Appeals for the District of Columbia Circuit (the Court) upheld the EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008).

The approach in the CAA process used by the EPA to evaluate residual risk and to develop standards under CAA section 112(f)(2) is a two-step approach. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [1] of approximately [1-in-10 thousand] [*i.e.,* 100-in-1 million].'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emissions standards necessary to bring risks to an acceptable level without considering costs. In the second step of the process, the EPA considers whether the emissions standards provide an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate emission standards necessary to provide an ample margin of safety to protect public health. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent an adverse affect, taking into consideration costs, energy, safety, and other relevant factors.

CAA section 112(d)(6) separately requires the EPA to review standards promulgated under CAA section 112 and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years. In conducting this so-called ''technology review,'' the EPA is not required to recalculate the MACT floor. *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013). The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6).

B. What is this source category and how does the current NESHAP regulate its HAP emissions?

The Leather Finishing NESHAP was promulgated on February 27, 2002 (67 FR 9156) and codified at 40 CFR part 63, subpart TTTT. The Leather Finishing NESHAP defines ''leather finishing'' as ''a single process or group of processes used to adjust and improve the physical and aesthetic characteristics of the leather surface through the multistage application of a coating comprised of dyes, pigments, film-forming materials, and performance modifiers dissolved or suspended in liquid carriers.'' 40 CFR 63.5460. The Leather Finishing NESHAP does not apply to equipment used solely for leather tanning operations or to portions of leather finishing operations using a solvent degreasing process subject to the Halogenated Solvent Cleaning NESHAP (see 40 CFR 63.5290(c)).

There are currently four existing leather finishing operations that were identified as subject to the Leather Finishing NESHAP: S.B. Foot Tanning Company of Red Wing, MN; Alliance Leather, Inc. of Peabody, MA; Pearl Leather Finishers, Inc. of Johnstown, NY; and Tasman Leather Group, LLC of Hartland, ME.

In the overall process of leather products manufacturing, leather finishing is considered a dry operation as opposed to the ''wet-end'' operations associated with leather tanning. Leather finishing operations can be co-located with wet-end tannery operations or performed in stand-alone facilities. None of the four existing facilities subject to the Leather Finishing NESHAP perform the initial wet-end tanning process that produces the commodity product known as ''wet blues'' or ''blue stock;'' however, based on information available in the facility operating permits, the S.B. Foot and Tasman facilities each perform retanning, coloring, and fat liquoring operations. These are wet-end operations that soften, color, and restore fats and oils to the blue stock. The equipment used solely for leather tanning operations is not subject to the Leather Finishing NESHAP.

In the dry-end leather finishing operations, coatings are typically applied to the leather substrate using spray, roll, and flow coating techniques. The emission source types subject to the emission limits under the Leather Finishing NESHAP include, but are not limited to coating and spraying equipment, coating storage and mixing, and dryers. Emissions of HAP occur from volatilization during the application of the coating, drying, or curing of the coating, and from handling, storage, and clean-up of the finishing materials. Wastewaters laden with HAP are also a potential source of emissions at facilities that use water curtains and water baths for particulate control. The emission point types associated with these emission sources include process vents, storage vessels, wastewater, and fugitive sources.

In developing the Leather Finishing NESHAP, the EPA established MACT standards for four types of leather product process operations: (1) Upholstery leather with greater than or equal to 4 grams of add-on finish per square foot of leather; (2) upholstery leather with less than 4 grams of add-on finish per square foot of leather; (3)

[1] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk if an individual were exposed to the maximum level of a pollutant for a lifetime.

water-resistant leather; and (4) nonwater-resistant leather. The MACT standards limit emissions from new and existing leather finishing operations and are expressed in terms of total HAP emissions per 1,000 square feet of leather processed over a rolling 12-month compliance period. Sources must record the mass of HAP in coatings applied to the leather either through an inventory mass balance or ''measure-as-applied'' approach. Using the mass balance approach, sources may choose to account for disposal of excess finish instead of assuming any excess finish is also emitted. Emissions are calculated based on the assumption that the entire HAP content of the applied finish is released to the environment. Sources using an add-on control device may account for the emission reduction achieved from the control device as measured by a performance test conducted in accordance with the requirements of the Leather Finishing NESHAP.

Based on the data collected as described in section II.C and D of this preamble, HAP emissions from this source category include propyl cellosolve, glycol ethers, diethylene glycol monobutyl ether, trimethylamine, diethylene glycol monomethyl ether, ethylene glycol, toluene, methyl isobutyl ketone, and chromium (III) compounds.

C. What data collection activities were conducted to support this action?

For this RTR, the EPA collected information from the 2014 National Emissions Inventory (NEI, version 1), from facility permits and permit applications, and through discussions with facility representatives and state permitting authorities.

The NEI is a database that contains information about sources that emit criteria air pollutants, their precursors, and HAP. The database includes estimates of annual air pollutant emissions from point, nonpoint, and mobile sources in the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. The EPA collects this information and releases an updated version of the NEI database every 3 years. The NEI includes information necessary for conducting risk modeling, including annual HAP emissions estimates from individual emission points at facilities and the related emissions release parameters. We used NEI emissions and supporting data as the primary source of information to develop the model input file for the risk assessment (hereafter referred to as the ''RTR emissions dataset''). For more details on the NEI, see *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei.*

The EPA also gathered information on annual emissions, emission points, air pollution control devices, and process operations from facility construction and operating permits. We collected permits and supporting documentation from state permitting authorities either through direct contact with the agencies or through state-maintained online databases. The NEI and facility permits contained much of the information we used to develop the RTR emissions dataset. Supplemental information was collected via communication with facility representatives.

The EPA contacted facility representatives for three of the four leather finishing operations subject to the Leather Finishing NESHAP (identified in section II.B of this preamble) to collect supplemental and clarifying information for use in the RTR emissions dataset. Facility representatives provided information including production capacities, coating formulations, HAP emissions, and operating schedules. We were unable to establish contact with facility representatives for Alliance Leather, Inc. of Peabody, MA; however, the Massachusetts Department of Environmental Protection confirmed the facility was in operation at the time of our inquiry (November 2016) and provided a facility annual emissions report for the 2015 reporting year. Contacts with facility representatives, our review of permit documentation, and our review of the 2014 NEI are documented in a separate memorandum titled *Leather Finishing: Residual Risk Modeling File Supporting Documentation* in the docket for this action.

D. What other relevant background information and data are available?

The EPA's Enforcement Compliance History Online (ECHO) database was used as a tool to identify which leather finishing operations were potentially subject to the Leather Finishing NESHAP. The ECHO database provides integrated compliance and enforcement information for approximately 800,000 regulated facilities nationwide. Using the search feature in ECHO, the EPA identified 120 facilities that could potentially be subject to the Leather Finishing NESHAP. The EPA also reviewed the membership directory of the Leather Industries of America trade association and supporting documentation for the 2002 rulemaking and identified an additional 35 facilities with operations potentially subject to the Leather Finishing NESHAP. We then searched state Web sites for operating permits for these facilities to determine whether the permits stated the facility contained leather finishing operations subject to the rule. For facilities for which permits were unavailable, we reviewed company Web sites, online news articles, and aerial imagery to determine if the facility was still in operation. Of the 155 identified facilities, we determined that 24 facilities perform leather finishing operations and 131 facilities are either closed or do not perform leather finishing operations. Of the 24 facilities performing leather finishing operations, only four are subject to the Leather Finishing NESHAP. The 20 remaining facilities are area sources and not subject to the Leather Finishing NESHAP.

The EPA searched for Reasonably Available Control Technology (RACT), Best Available Control Technology (BACT), and Lowest Achievable Emission Rate (LAER) determinations in the RACT/BACT/LAER Clearinghouse (RBLC). The RBLC is a database that contains case-specific information of air pollution technologies that have been required to reduce the emissions of air pollutants from stationary sources. Under the EPA's New Source Review (NSR) program, if a facility is planning new construction or a modification that will increase the air emissions by a certain amount, an NSR permit must be obtained. This central database promotes the sharing of information among permitting agencies and aids in case-by-case determinations for NSR permits. We examined information contained in the RBLC to determine what technologies are currently used at leather finishing operations to reduce air emissions.

The EPA also reviewed other information sources to determine whether there have been developments in practices, processes, or control technologies in the leather finishing operations source category. We reviewed subsequent regulatory actions for sources similar to leather finishing operations and conducted a review of literature published by industry organizations, technical journals, and government organizations. Additional details regarding our review of these information sources is contained in the memorandum titled *CAA section 112(d)(6) Technology Review for the Leather Finishing Source Category* in the docket for this action.

III. Analytical Procedures

In this section, we describe the analyses performed to support the

proposed decisions for the RTR and other issues addressed in this proposal.

A. How do we consider risk in our decision-making?

As discussed in section II.A of this preamble and in the Benzene NESHAP, in evaluating and developing standards under CAA section 112(f)(2), we apply a two-step process to determine whether or not risks are acceptable and to determine if the standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and, thus, ''[t]he Administrator believes that the acceptability of risk under [previous] section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. The EPA conducts a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause noncancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause noncancer health effects.[2] The assessment also provides estimates of the distribution of cancer risks within the exposed populations, cancer incidence, and an evaluation of the potential for adverse environmental effects. The scope of EPA's risk analysis is consistent with EPA's response to comment on our policy under the Benzene NESHAP where the EPA explained that:

''[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of non-cancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing [her] expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in [her] judgment, believes are appropriate to determining what will 'protect the public health'.''

See 54 FR at 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risks. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify those HAP risks that may be associated with emissions from other facilities that do not include the source category under review, mobile source emissions, natural source emissions, persistent environmental pollution, or atmospheric transformation in the vicinity of the sources in the category.

The EPA understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing noncancer risks, where pollutant-specific exposure health reference levels (*e.g.,* reference concentrations (RfCs)) are based on the assumption that thresholds exist for adverse health effects. For example, the EPA recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse noncancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in increased risk of adverse noncancer health effects. In May 2010, the Science Advisory Board (SAB) advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [3]

In response to the SAB recommendations, the EPA is incorporating cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. The Agency is (1) Conducting facility-wide assessments, which include source category emission points, as well as other emission points within the facilities; (2) combining exposures from multiple sources in the same category that could affect the same individuals; and (3) for some persistent and bioaccumulative pollutants, analyzing the ingestion route of exposure. In addition, the RTR risk assessments have always considered aggregate cancer risk from all carcinogens and aggregate noncancer HI from all noncarcinogens affecting the same target organ system.

Although we are interested in placing source category and facility-wide HAP risks in the context of total HAP risks from all sources combined in the

[2] The MIR is defined as the cancer risk associated with a lifetime of exposure at the highest concentration of HAP where people are likely to live. The HQ is the ratio of the potential exposure to the HAP to the level at or below which no adverse chronic noncancer effects are expected; the HI is the sum of HQs for HAP that affect the same target organ or organ system.

[3] The EPA's responses to this and all other key recommendations of the SAB's advisory on RTR risk assessment methodologies (which is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf*) are outlined in a memorandum to this rulemaking docket from David Guinnup titled, *EPA's Actions in Response to the Key Recommendations of the SAB Review of RTR Risk Assessment Methodologies.*

vicinity of each source, we are concerned about the uncertainties of doing so. Because of the contribution to total HAP risk from emission sources other than those that we have studied in depth during this RTR review, such estimates of total HAP risks would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

B. How do we perform the technology review?

Our technology review focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MACT standards were promulgated. Where we identify such developments, in order to inform our decision of whether it is ''necessary'' to revise the emissions standards, we analyze the technical feasibility of applying these developments and the estimated costs, energy implications, non-air environmental impacts, and we also considered the emission reductions. In addition, we considered the appropriateness of applying controls to new sources versus retrofitting existing sources.

Based on our analyses of the available data and information, we identify potential developments in practices, processes, and control technologies. For this exercise, we consider any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we originally developed (or last updated) the NESHAP, we reviewed a variety of data sources in our investigation of potential practices, processes, or controls to consider. Among the sources we reviewed were the NESHAP for various industries that were promulgated since the MACT standards being reviewed in this action. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes, and control technologies considered in these efforts that could be applied to emission sources in the Leather Finishing Operations source category, as well as the costs, non-air impacts, and energy implications associated with the use of these technologies. Finally, we reviewed information from other sources, such as state and/or local permitting agency databases and industry-supported databases.

C. How did we estimate post-MACT risks posed by the source category?

The EPA conducted a risk assessment that provides estimates of the MIR for cancer posed by the HAP emissions from each source in the source category, the HI for chronic exposures to HAP with the potential to cause noncancer health effects, and the HQ for acute exposures to HAP with the potential to cause noncancer health effects. The assessment also provides estimates of the distribution of cancer risks within the exposed populations, cancer incidence, and an evaluation of the potential for adverse environmental effects. The eight sections that follow this paragraph describe how we estimated emissions and conducted the risk assessment. The docket for this rulemaking contains the following document, which provides more information on the risk assessment inputs and models: *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule.* The methods used to assess risks (as described in the eight primary steps below) are consistent with those peer-reviewed by a panel of the EPA's SAB in 2009 and described in their peer review report issued in 2010 [4]; they are also consistent with the key recommendations contained in that report.

[4] U.S. EPA SAB. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* May 2010.

1. How did we estimate actual emissions and identify the emissions release characteristics?

Data for four leather finishing operations as described in section II.C of this preamble were used to create the RTR emissions dataset. The emission sources in the RTR emissions dataset include the following types of emissions sources currently regulated by the Leather Finishing NESHAP: Coating and spraying equipment, coating storage and mixing, and dryers. The RTR emissions dataset also includes emissions from buffing operations. This RTR emissions dataset is based primarily on emissions data from the 2014 NEI, facility permits and permit supporting documentation, a state-provided facility annual emissions report, and information obtained through contact with facility representatives. These data sources provided all of the emissions data in the RTR emissions dataset and nearly all of the facility-specific data needed to conduct the risk modeling analysis. However, there were a few instances where default values were used to fill gaps in the facility-specific data used in the risk modeling analysis. For example, default values were used for fugitive release parameters. Use of defaults is discussed in detail in the memorandum titled *Leather Finishing: Residual Risk Modeling File Supporting Documentation* in the docket for this action.

The RTR emissions dataset was refined following an extensive quality assurance (QA) check of source locations, emission release characteristics, and annual emission estimates. We checked the coordinates of each emission source in the dataset using a computer program that renders a three-dimensional representation of Earth based on satellite imagery to ensure the emission point locations were correct. We also confirmed that each stack parameter was within acceptable QA range check boundaries. For further information on the EPA's QA review, see the memorandum titled *Leather Finishing: Residual Risk Modeling File Supporting Documentation* in the docket for this action.

2. How did we estimate MACT-allowable emissions?

The available emissions data used to develop the RTR emissions dataset include estimates of the mass of HAP emitted during a specified annual time period. These ''actual'' emission levels are often lower than the emission levels required to comply with the current MACT standards. The emissions level

allowed to be emitted by the MACT standards is referred to as the ''MACT-allowable'' emissions level. We discussed the use of both MACT-allowable and actual emissions in the final Coke Oven Batteries RTR (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP RTRs (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those actions, we noted that assessing the risks at the MACT-allowable level is inherently reasonable since these risks reflect the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989).

We used the RTR emissions dataset discussed in section III.C.1 of this preamble to estimate allowable emissions levels. The types and sources of data we used to estimate allowable emissions vary by facility and leather finishing operation type. Because the Leather Finishing NESHAP MACT limits are production-based limits (*i.e.,* pounds HAP per square feet of leather processed), estimating MACT-allowable emissions for the Leather Finishing Operations source category would be accomplished by using the actual production level per leather finishing operation type to calculate emissions at the MACT limit per leather finishing operation type. However, we do not have actual production data (quantity and type of leather) for each permitted leather finishing operation because we did not petition facilities for this information with an information collection request (ICR). As a result, different methods for estimating allowable emissions were warranted for each facility and leather finishing operation type. This section provides a summary of our method for estimating allowable emissions for each facility. Refer to the memorandum titled *Leather Finishing: Residual Risk Modeling File Supporting Documentation* in the docket for this action for a more detailed discussion of the data and methods we used to calculate allowable emissions for these facilities.

For Alliance Leather, we estimated allowable emissions for organic HAP using the Leather Finishing NESHAP limit on total HAP emissions that is specified in the facility's permit, which is 3.7 pounds of HAP emitted per 1,000 square feet of leather processed. The facility's total allowable annual HAP emission rate was estimated to be the product of this HAP limit (3.7 pounds per 1,000 square feet of leather processed), the design production capacity of the leather finishing process specified in the operating permit (16,200 square feet per hour), and the annual operating schedule contained in the 2014 NEI (2,000 hours per year). Given that we do not have actual production data for this leather finishing operation, we could not calculate the MACT-allowable emissions level as described above. However, using design production capacity in place of actual production is a more conservative approach, yielding a higher estimate for allowable organic HAP emissions. As further detailed in the memorandum cited above in this section, this approach yielded a total allowable annual HAP emission rate of 60 tpy, equivalent to 118 times the actual emission rate. Allowable organic HAP emissions for the risk modeling file were estimated by multiplying by 118 the actual organic HAP emission rates for each emission release point, emission process, and emission unit combination.

For S.B. Foot Tanning Co. and Pearl Leather Finishers, Inc, we also do not have actual production data. Further, S.B. Foot has multiple leather finishing operations, each subject to a different production-based NESHAP limit. To calculate the MACT-allowable emissions level for each leather finishing operation at the facility, we would need the actual production data for each leather finishing operation. Given our data limitations for these two facilities, we identified an alternative approach for estimating allowable emissions that was not available for Alliance Leather. S.B. Foot and Pearl Leather Finishers are subject to permitted mass-based limits on volatile organic compound(s) (VOC) emissions in tpy. We determined that we could use each facility's permitted VOC limit to estimate allowable organic HAP emissions because all organic HAP emitted are VOC and, in the coating formulations, there is little variation in the ratio of total organic HAP to total VOC. Using the ratio of each facility's permitted VOC emission limit to its reported [5] annual VOC emissions, we estimated allowable organic HAP emissions as the product of actual organic HAP emissions and this ratio. For example, for S.B. Foot, permitted VOC emissions are 200 tpy and reported VOC emissions are 88.61 tpy, which yields a ratio of 2.26. For Pearl Leather Finishers, permitted VOC emissions are 194,180 pounds per year and reported VOC emissions are 41,926 pounds, which yields a ratio of 4.63. Using these ratios, we estimated allowable organic HAP emissions as the product of actual organic HAP emissions and the ratio. For S.B. Foot, actual organic HAP emissions are 16.18 tpy, which multiplied by 2.26 yields 36.5 tpy allowable organic HAP emissions. Using this same method for Pearl Leather Finishers yields an allowable organic HAP emission level of 5.1 tpy. Allowable organic HAP emissions for the risk modeling file were estimated for each facility by multiplying the actual organic HAP emission rates for each emission release point, emission process, and emission unit combination by the ratio. Refer to the memorandum cited above in this section for a detailed discussion about these data sources and calculations. We solicit comment on this proposed method of calculating allowable organic HAP emissions for S.B. Foot and Pearl Leather Finishers.

For Tasman Leather Group, LLC., allowable emissions were estimated using the maximum HAP emissions allowed for area sources, which is 10 tpy for all HAP emitted (refer to the memorandum, *Leather Finishing: Residual Risk Modeling File Supporting Documentation,* in the docket for this action for further discussion on the status of this facility as an area source). Allowable emissions for organic HAP were set equivalent to this total annual HAP emission limit of 10 tpy. Allowable organic HAP emissions for the risk modeling file were estimated by multiplying the actual organic HAP emission rate (as reported in the 2014 NEI) for each emission release point, emission process, and emission unit combination by a factor of 2.78, which is the ratio of allowable total HAP emissions (10 tpy) to actual facility-wide emissions of HAP (3.59 tpy). Refer to the memorandum cited above in this section for a detailed discussion about these data sources and calculations.

We estimated allowable chromium (III) emissions from buffing operations as follows. For S.B. Foot, the allowable rate for each chromium-emitting emission release point was set equal to the potential to emit value in the facility's permit technical support document (TSD), which is 0.319 tpy chromium (III). No additional restrictions on chromium (III) emissions were identified. For Pearl Leather Finishers and Tasman Leather Group, we used emission factors presented in the S.B. Foot permit TSD to estimate the allowable emission rate for each chromium emission release point. For Pearl Leather Finishers, based on communication with facility representatives regarding average

[5] Reported to the 2014 NEI.

production rate, design production capacity, and dust capture, and assuming a 90-percent control efficiency, we calculated an allowable chromium (III) emission rate of 0.266 tpy. For Tasman Leather Group, based on communication with facility representatives, we identified the design capacity of each buffing operation and established that four buffing operations currently operate. Using this design capacity, we calculated allowable chromium emissions based on permit special conditions for the facility allowing the operation of 12 such buffing units at any given time and requiring a 90-percent particulate removal efficiency. Based on these permitted conditions, we calculated an allowable chromium (III) emission rate of 4.98 tpy. Refer to the memorandum cited above in this section for a detailed discussion about these data sources and calculations. We identified no buffing operations at Alliance Leather.

We solicit comment on our proposed methods for estimating allowable emissions. In addition to general comments on these proposed methods, we are interested in additional data that may improve our estimation of allowable emissions.

3. How did we conduct dispersion modeling, determine inhalation exposures, and estimate individual and population inhalation risks?

Both long-term and short-term inhalation exposure concentrations and health risks from the source category addressed in this proposal were estimated using the Human Exposure Model (HEM–3). The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources, and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

a. Dispersion Modeling

The air dispersion model AERMOD, used by the HEM–3 model, is one of the EPA's preferred models for assessing air pollutant concentrations from industrial facilities.[6] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year (2016) of hourly surface and upper air observations from 824 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block[7] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant-specific dose-response values is used to estimate health risks. These dose-response values are the latest values recommended by the EPA for HAP. They are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants* and are discussed in more detail later in this section.

b. Risk From Chronic Exposure to HAP That May Cause Cancer

In developing the risk assessment for chronic exposures, we use the estimated annual average ambient air concentrations of each HAP emitted by each source for which we have emissions data in the source category. The air concentrations at each nearby census block centroid are used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculate the MIR for each facility as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, 52 weeks per year, for a 70-year period) exposure to the maximum concentration at the centroid of inhabited census blocks. Individual cancer risks are calculated by multiplying the estimated lifetime exposure to the ambient concentration of each HAP (in micrograms per cubic meter) by its unit risk estimate (URE). The URE is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use UREs from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) UREs, where available. In cases where new, scientifically credible dose-response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate.

To estimate incremental individual lifetime cancer risks associated with emissions from the facilities in the source category, the EPA sums the risks for each of the carcinogenic HAP[8] emitted by the modeled sources. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of the sources are also estimated for the source category by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

c. Risk From Chronic Exposure to HAP That May Cause Health Effects Other Than Cancer

To assess the risk of noncancer health effects from chronic exposure to HAP, we calculate either an HQ or a target organ-specific hazard index (TOSHI). We calculate an HQ when a single noncancer HAP is emitted. Where more than one noncancer HAP is emitted, we sum the HQ for each of the HAP that affects a common target organ system to obtain a TOSHI. The HQ is the estimated exposure divided by the chronic noncancer dose-response value, which is a value selected from one of several sources. The preferred chronic noncancer dose-response value is the EPA RfC (*https://iaspub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/*

[6] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[7] A census block is the smallest geographic area for which census statistics are tabulated.

[8] EPA classifies carcinogens as: Carcinogenic to humans, likely to be carcinogenic to humans, and suggestive evidence of carcinogenic potential. These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). In August 2000, the document *Supplemental Guidance for Conducting Health Risk Assessment of Chemical Mixtures* (EPA/630/R–00/002) was published as a supplement to the 1986 document. Copies of both documents can be obtained from *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=20533&CFID=70315376&CFTOKEN=71597944.* Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's SAB in their 2002 peer review of the EPA's National Air Toxics Assessment (NATA) titled *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

search.do?details=&vocabName=IRIS%20Glossary), defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.'' In cases where an RfC from the EPA's IRIS database is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic noncancer dose-response value can be a value from the following prioritized sources, which define their dose-response values similarly to the EPA: (1) The Agency for Toxic Substances and Disease Registry (ATSDR) Minimum Risk Level (*http://www.atsdr.cdc.gov/mrls/index.asp*); (2) the CalEPA Chronic Reference Exposure Level (REL) (*http://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0*); or (3), as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA.

d. Risk From Acute Exposure to HAP That May Cause Health Effects Other Than Cancer

For each HAP for which appropriate acute inhalation dose-response values are available, the EPA also assesses the potential health risks due to acute exposure. For these assessments, the EPA makes conservative assumptions about emission rates, meteorology, and exposure location. We use the peak hourly emission rate,[9] worst-case dispersion conditions, and, in accordance with our mandate under section 112 of the CAA, the point of highest off-site exposure to assess the potential risk to the maximally exposed individual.

To characterize the potential health risks associated with estimated acute inhalation exposures to a HAP, we generally use multiple acute dose-response values, including acute RELs, acute exposure guideline levels (AEGLs), and emergency response planning guidelines (ERPG) for 1-hour exposure durations), if available, to calculate acute HQs. The acute HQ is calculated by dividing the estimated acute exposure by the acute dose-response value. For each HAP for which acute dose-response values are available, the EPA calculates acute HQs.

An acute REL is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' [10] Acute RELs are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. They are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact. AEGLs represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to 8 hours.[11] They are guideline levels for ''once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. The AEGL–1 is specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or mg/m3 (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' *Id.* AEGL–2 are defined as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPGs are developed for emergency planning and are intended as health-based guideline concentrations for single exposures to chemicals.'' [12] *Id.* at 1. The ERPG–1 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

An acute REL for 1-hour exposure durations is typically lower than its corresponding AEGL–1 and ERPG–1. Even though their definitions are slightly different, AEGL–1s are often the same as the corresponding ERPG–1s, and AEGL–2s are often equal to ERPG–2s. The maximum HQs from our acute inhalation screening risk assessment typically result when we use the acute REL for a HAP. In cases where the maximum acute HQ exceeds 1, we also report the HQ based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1).

For this source category, facility-specific actual emissions were used to calculate peak hourly emissions in our acute inhalation screening risk assessment. For each HAP emitted by a facility, the peak hourly emission rate was calculated by dividing the actual annual emission rate by facility-specific annual operating hours and multiplying this hourly rate by an acute emission multiplier of 1.8. The multiplier was developed using U.S. census data reported in 2012 through 2017 for leather finishing operations production capacity utilization over the period 2011 through 2016. The multiplier was calculated as the ratio of the highest

[9] In the absence of hourly emission data, we develop estimates of peak hourly emission rates by multiplying the average actual annual emissions rates by a default factor (usually 10) to account for variability. This is documented in *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule* and in Appendix 5 of the report: *Analysis of Data on Short-term Emission Rates Relative to Long-term Emission Rates.* Both are available in the docket for this rulemaking.

[10] CalEPA issues acute RELs as part of its Air Toxics Hot Spots Program, and the 1-hour and 8-hour values are documented in *Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* which is available at *http://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary.*

[11] National Academy of Sciences (NAS), 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2. Available at *https://www.epa.gov/sites/production/files/2015-09/documents/sop_final_standing_operating_procedures_2001.pdf.* Note that the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances ended in October 2011, but the AEGL program continues to operate at the EPA and works with the National Academies to publish final AEGLs, (*https://www.epa.gov/aegl*).

[12] *ERPGS Procedures and Responsibilities.* March 2014. American Industrial Hygiene Association. Available at: *https://www.aiha.org/get-involved/AIHAGuidelineFoundation/EmergencyResponsePlanningGuidelines/Documents/ERPG%20Committee%20Standard%20Operating%20Procedures%20%20-%20March%202014%20Revision%20%28Updated%2010-2-2014%29.pdf.*

production rate capacity use factor (87.5) to the lowest production rate capacity use factor (46.6). Emissions from leather finishing operations are primarily from coatings operations. The production capacity of leather finishing operations is constrained by the amount of time it takes to apply and cure coatings, and machines are running more or less continuously, which gives a smooth temporal profile and, thus, a low emission adjustment factor. Consequently, actual emissions and acute hourly emissions will be similar, and the selected adjustment factor of 1.8 was selected over the default adjustment factor of 10. The description of how peak hourly emissions were calculated and additional information regarding operating hours at each facility in the source category can be found in Appendix 1—Emissions Inventory Support Document of the document titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule* in the docket for this rulemaking.

In our acute inhalation screening risk assessment, acute impacts are deemed negligible for HAP where acute HQs are less than or equal to 1 (even under the conservative assumptions of the screening assessment), and no further analysis is performed for these HAP. In cases where an acute HQ from the screening step is greater than 1, we consider additional site-specific data to develop a more refined estimate of the potential for acute impacts of concern. For this source category, the data refinements employed consisted of ensuring the locations where the maximum HQ occurred were off facility property and where the public could potentially be exposed. Also in estimating acute risks for the Leather Finishing Operations source category, we employed the following data refinements in calculating peak hourly emissions, as described above in this section: Used facility-specific operating hour data and developed an industry-specific multiplier based on industry-specific U.S. census data. These refinements are discussed more fully in the *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

4. How did we conduct the multipathway exposure and risk screening assessment?

The EPA conducted a tiered screening assessment examining the potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* ingestion). We first determined whether any sources in the source category emitted any HAP known to be persistent and bioaccumulative in the environment (PB–HAP), as identified in the EPA's Air Toxics Risk Assessment Library (See Volume 1, Appendix D, at *http://www2.epa.gov/fera/risk-assessment-and-modeling-air-toxics-risk-assessment-reference-library*).

For the Leather Finishing Operations source category, we did not identify emissions of any PB–HAP. Because we did not identify PB–HAP emissions, no further evaluation of multipathway risk was conducted for this source category.

5. How did we assess risks considering emissions control options?

While emission control technologies were considered, the analysis determined the available control technologies were not cost effective for reducing HAP emissions from leather finishing operations. Therefore, we did not assess risk on the emission control options. For more information regarding analysis of available control technologies, see the memorandum, *CAA section 112(d)(6) Technology Review for the Leather Finishing Source Category,* which is available in the docket for this action.

6. How did we conduct the environmental risk screening assessment?

a. Adverse Environmental Effects, Environmental HAP, and Ecological Benchmarks

The EPA conducts a screening assessment to examine the potential for adverse environmental effects as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

The EPA focuses on eight HAP, which are referred to as ''environmental HAP,'' in its screening assessment: Six PB–HAP and two acid gases. The PB–HAP included in the screening assessment are arsenic compounds, cadmium compounds, dioxins/furans, polycyclic organic matter, mercury (both inorganic mercury and methyl mercury), and lead compounds. The acid gases included in the screening assessment are hydrochloric acid (HCl) and hydrogen fluoride (HF).

HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment, and water. The acid gases, HCl and HF, were included due to their well-documented potential to cause direct damage to terrestrial plants. In the environmental risk screening assessment, we evaluate the following four exposure media: Terrestrial soils, surface water bodies (includes water-column and benthic sediments), fish consumed by wildlife, and air. Within these four exposure media, we evaluate nine ecological assessment endpoints, which are defined by the ecological entity and its attributes. For PB–HAP (other than lead), both community-level and population-level endpoints are included. For acid gases, the ecological assessment evaluated is terrestrial plant communities.

An ecological benchmark represents a concentration of HAP that has been linked to a particular environmental effect level. For each environmental HAP, we identified the available ecological benchmarks for each assessment endpoint. We identified, where possible, ecological benchmarks at the following effect levels: Probable effect levels, lowest-observed-adverse-effect level, and no-observed-adverse-effect level. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

For the Leather Finishing Operations source category, we did not identify emissions of any PB–HAP. Because we did not identify PB–HAP emissions, no further evaluation of ecological impacts was conducted for this source category.

For further information on how the environmental risk screening assessment was conducted, including a discussion of the risk metrics used, how the environmental HAP were identified, and how the ecological benchmarks were selected, see Appendix 9 of the *Residual Risk Assessment for Leather Finishing Operations Source Category in Support of the Risk and Technology Review December 2017 Proposed Rule,* which is available in the docket for this action.

b. Environmental Risk Screening Methodology

For the environmental risk screening assessment, the EPA first determined whether any facilities in the Leather

Finishing Operations source category emitted any of the environmental HAP. For this source category, we did not identify emissions of any of the eight environmental HAP included in the screen. Because we did not identify environmental HAP emissions, no further evaluation of environmental risk was conducted.

7. How did we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category emission points of interest, but also emissions of HAP from all other emission sources at the facility for which we have data.

For this source category, we conducted the facility-wide assessment using a dataset that the EPA compiled from the 2014 NEI. We used the NEI data for the facility and did not adjust any category or ''non-category'' data. Therefore, there could be differences in the dataset from that used for the source category assessments described in this preamble. We analyzed risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, we made a reasonable attempt to identify the source category risks, and these risks were compared to the facility-wide risks to determine the portion of facility-wide risks that could be attributed to the source category addressed in this proposal. We also specifically examined the facility that was associated with the highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the Risk and Technology Review December 2017 Proposed Rule,* available through the docket for this action, provides the methodology and results of the facility-wide analyses, including all facility-wide risks and the percentage of source category contribution to facility-wide risks.

8. How did we consider uncertainties in risk assessment?

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates, and dose-response relationships follows below. Also included are those uncertainties specific to our acute screening assessments, multipathway screening assessments, and our environmental risk screening assessments. A more thorough discussion of these uncertainties is included in the *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the Risk and Technology Review December 2017 Proposed Rule,* which is available in the docket for this action. If a multipathway site-specific assessment was performed for this source category, a full discussion of the uncertainties associated with that assessment can be found in Appendix 11 of that document, *Site-Specific Human Health Multipathway Residual Risk Assessment Report.*

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved QA/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emission estimates, and other factors. The emission estimates considered in this analysis generally are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (*e.g.,* not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (*e.g.,* not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (*e.g.,* meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations. We also note that the selection of meteorology dataset location could have an impact on the risk estimates. As we continue to update and expand our library of meteorological station data used in our risk assessments, we expect to reduce this variability.

c. Uncertainties in Inhalation Exposure Assessment

Although every effort is made to identify all of the relevant facilities and emission points, as well as to develop accurate estimates of the annual emission rates for all relevant HAP, the uncertainties in our emission inventory likely dominate the uncertainties in the exposure assessment. Some uncertainties in our exposure assessment include human mobility, using the centroid of each census block, assuming lifetime exposure, and assuming only outdoor exposures. For most of these factors, there is neither an under nor overestimate when looking at the maximum individual risks or the incidence, but the shape of the distribution of risks may be affected. With respect to outdoor exposures, actual exposures may not be as high if people spend time indoors, especially for very reactive pollutants or larger particles. For all factors, we reduce uncertainty when possible. For example, with respect to census-block centroids, we analyze large blocks using aerial imagery and adjust locations of the block centroids to better represent the population in the blocks. We also add additional receptor locations where the population of a block is not well represented by a single location.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and noncancer effects from both chronic and acute exposures. Some uncertainties are generally expressed quantitatively, and others are generally expressed in qualitative terms. We note, as a preface to this discussion, a point on dose-response uncertainty that is

stated in the EPA's *2005 Cancer Guidelines;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (EPA's *2005 Cancer Guidelines,* pages 1–7). This is the approach followed here as summarized in the next paragraphs.

Cancer UREs used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit).[13] In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[14] Chronic noncancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. To derive dose-response values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach (U.S. EPA, 1993 and 1994) which considers uncertainty, variability, and gaps in the available data. The UFs are applied to derive dose-response values that are intended to protect against appreciable risk of deleterious effects.

Many of the UFs used to account for variability and uncertainty in the development of acute dose-response values are quite similar to those developed for chronic durations. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.,* 4 hours) to derive an acute dose-response value at another exposure duration (*e.g.,* 1 hour). Not all acute dose-response values are developed for the same purpose, and care must be taken when interpreting the results of an acute assessment of human health effects relative to the dose-response value or values being exceeded. Where relevant to the estimated exposures, the lack of acute dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Uncertainty also exists in the selection of ecological benchmarks for the environmental risk screening assessment. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. We searched for benchmarks for three effect levels (*i.e.,* no-effects level, threshold-effect level, and probable effect level), but not all combinations of ecological assessment/environmental HAP had benchmarks for all three effect levels. Where multiple effect levels were available for a particular HAP and assessment endpoint, we used all of the available effect levels to help us determine whether risk exists and whether the risk could be considered significant and widespread.

Although every effort is made to identify appropriate human health effect dose-response values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by this source category are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for an IRIS assessment for that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including consideration of HAP reductions achieved by various control options.

For a group of compounds that are unspeciated (*e.g.,* glycol ethers), we conservatively use the most protective dose-response value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.,* ethylene glycol diethyl ether) that does not have a specified dose-response value, we also apply the most protective dose-response value from the other compounds in the group to estimate risk.

e. Uncertainties in Acute Inhalation Screening Assessments

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology, and the presence of humans at the location of the maximum concentration. In the acute screening assessment that we conduct under the RTR program, we assume that peak emissions from the source category and worst-case meteorological conditions co-occur, thus, resulting in maximum ambient concentrations. These two events are unlikely to occur at the same time, making these assumptions conservative. We then include the additional assumption that a person is located at this point during this same time period. For this source category, these assumptions would tend to be worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and worst-case meteorological conditions occur simultaneously.

IV. Analytical Results and Proposed Decisions

A. What are the results of the risk assessment and analyses?

We present results of the Leather Finishing Operations source category risk assessment briefly below and in more detail in the residual risk document, *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule,* in the docket for this action.

1. Inhalation Risk Assessment Results

Table 2 of this preamble provides a summary of the results of the inhalation risk assessment for the source category.

[13] IRIS glossary (*https://ofmpub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=IRIS%20Glossary*).

[14] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

TABLE 2—LEATHER FINISHING OPERATIONS INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic non-cancer TOSHI [3]		Maximum screening acute non-cancer HQ [4]
	Based on actual emissions level [2]	Based on allowable emissions level	Based on actual emissions level [2]	Based on allowable emissions level	Based on actual emissions level	Based on actual emissions level	Based on actual emissions level	Based on allowable emissions level	Based on actual emissions level
4	0	0	0	0	0	0	0.04	0.3	HQ_{REL} = 3 (propyl cellosolve and glycol ethers)

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum TOSHI. The target organ with the highest TOSHI for the Leather Finishing Operations source category is the reproductive target organ.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

The results of the inhalation risk modeling using actual emissions data, as shown in Table 2 of this preamble, indicate the maximum chronic noncancer TOSHI value could be up to 0.04. While we would have estimated incremental individual lifetime cancer risks as discussed in section III.C.3.b of this preamble, there were no carcinogenic HAP emissions from this source category, so the maximum lifetime individual cancer risk is 0 and the total estimated national cancer incidence from these facilities based on actual emission levels is no excess cancer cases per year.

2. Acute Risk Results

Table 2 of this preamble indicates that for the Leather Finishing Operations source category, the maximum HQ is 3, driven by propyl cellosolve and glycol ethers. The only acute dose-response value for propyl cellosolve and glycol ethers is the REL; therefore, only the HQ_{REL} is provided. Refinement of the acute risk results was performed using aerial photos to ensure that the location where the maximum risk was projected to occur was, in fact, a location where the general public could be exposed. The result of this refinement confirmed that the maximum acute risk result occurred where the public could potentially be exposed. This refinement, therefore, had no impact on the maximum HQ. For more detailed acute risk results refer to the draft residual risk document, *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule,* in the docket for this action.

3. Multipathway Risk Screening Results

There are no PB–HAP emitted by facilities in this source category. Therefore, we do not expect any human health multipathway risks as a result of HAP emissions from this source category.

4. Environmental Risk Screening Results

There are no ''environmental HAP'' emitted by facilities in this source category. Therefore, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

5. Facility-Wide Risk Results

An assessment of risk from facility-wide emissions was performed to provide context for the source category risks. Using the NEI data described in sections II.C and III.C of this preamble, the maximum cancer risk in the facility-wide assessment was 0.09-in-1 million and the maximum chronic noncancer HI index was 0.1 (for the reproductive system), both driven by emissions from external combustion boilers.

6. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 km and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Leather Finishing Operations source category across different demographic groups within the populations living near facilities.[15]

Results of the demographic analysis indicate that, for 1 of the 11 demographic groups, Ages 65 and up, the percentage of the population living within 5 km of facilities in the source category is greater than the corresponding national percentage for the same demographic groups. When examining the risk levels of those exposed to emissions from leather finishing operations, we find that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Leather Finishing Operations,* available in the docket for this action.

B. What are our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effects?

1. Risk Acceptability

We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, the number of persons in various cancer and non-cancer risk ranges, cancer incidence, the maximum non-cancer TOSHI, the maximum acute non-cancer HQ, the extent of non-cancer risks, the distribution of cancer and non-cancer risks in the exposed population, and risk estimation uncertainties (54 FR 38044, September 14, 1989).

For the Leather Finishing Operations source category, the risk analysis indicates that the cancer risks to the individual most exposed are below 1-in-1 million from both actual and allowable emissions. These risks are considerably less than 100-in-1 million, which is the presumptive upper limit of acceptable risk. The risk analysis also shows no cancer incidence, as well as maximum chronic noncancer TOSHI value of 0.04, which is significantly below 1. In addition, the risk assessment indicates no significant potential for multi-pathway health effects. The acute

[15] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living two times the poverty level, and linguistically isolated people.

non-cancer risks indicate a maximum HQ of 3.

Considering all the health risk information and factors discussed above, including the uncertainties, we propose to find that the risks from the Leather Finishing Operations source category are acceptable.

2. Ample Margin of Safety Analysis

Although we are proposing that the risks from the Leather Finishing Operations source category are acceptable, risk estimates indicate the maximum acute non-cancer HQ screening estimate was greater than 1, driven by emissions of propyl cellosolve and glycol ethers and based on allowable emissions, as further discussed in section IV.A.2 of this preamble. We considered options for further reducing gaseous organic HAP emissions from leather finishing operations. The greatest reduction in organic HAP emissions that could be achieved for these operations would result from use of a concentrator followed by a regenerative thermal oxidizer (RTO), which we estimate would remove 98 percent of organic HAP emissions. Biological treatment together with use of a concentrator would achieve 84-percent removal of organic HAP emissions. Section IV.C of this preamble discusses the costs and impacts associated with use of these control technologies. The resulting cost-effectiveness values for operating the concentrator followed by a RTO and for operating the concentrator plus biological treatment are $54,000 and $62,000 per ton of HAP removed, respectively. Due to our determinations that cancer risks are below 1-in-1 million and that the maximum chronic noncancer TOSHI value is below 1, uncertainties associated with the acute screening risk estimate (refer to the risk report titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule* in the docket for this action), and the substantial costs associated with the control options, we are proposing that additional standards for this source category are not required to provide an ample margin of safety to protect public health, and that the current standards provide an ample margin of safety to protect public health.

3. Adverse Environmental Effects

We did not identify emissions of any of the eight environmental HAP included in our environmental risk screening, and we are unaware of any adverse environmental effects caused by HAP emitted by this source category. Therefore, we do not expect there to be an adverse environmental effect as a result of HAP emissions from this source category, and we are proposing that it is not necessary to promulgate a more stringent standard to prevent an adverse environmental effect, taking into consideration costs, energy, safety, and other relevant factors.

For the reasons above, we are not proposing to make any amendments to the existing NESHAP pursuant to CAA section 112(f)(2).

C. What are the results and proposed decisions based on our technology review?

As described in section III.B of this preamble, our technology review focused on identifying developments in the practices, processes, and control technologies for the Leather Finishing Operations source category. The EPA reviewed various information sources regarding emissions sources that are currently regulated by the Leather Finishing NESHAP, which include, but are not limited to, coating and spraying equipment, coating storage and mixing, and dryers.

As discussed further in sections II.C and D of this preamble, we conducted a search of the RBLC, other regulatory actions (MACT standards, area source standards, and residual risk standards) since the 2002 Leather Finishing NESHAP, literature related to research conducted for emission reductions from leather finishing operations emission sources, and state permits.

We reviewed these data sources for information on add-on control technologies, other treatment units, work practices, procedures, and process alternatives that were not considered during the development of the Leather Finishing NESHAP. We also looked for information on improvements in add-on control technology, other treatment units, work practices, procedures, and process changes or pollution prevention alternatives that have occurred since development of the Leather Finishing NESHAP.

After reviewing information from the aforementioned sources, we identified two control technologies for further evaluation that are technically feasible for use at leather finishing operations, but were not investigated during the original rule development: biological treatment and concentrators. Biological treatment was identified as a result of our literature review. In biological treatment, organic pollutants are converted to water and carbon dioxide after being consumed as food by microbes. Biological treatment can include biofilters, bio-trickling filters, and bioscrubbers among others. The use of a concentrator was identified by our review of residual risk standards. The technology review conducted for the Ship Building and Ship Repair source category identified the use of a concentrator, combined with an RTO, to control emissions from spray booths (75 FR 80239). A concentrator uses an adsorbent to remove organic pollutants from an exhaust stream. Those pollutants are then desorbed from the adsorbent material using a stream much smaller in volume than the original exhaust stream. This lower flow rate stream is then directed to an RTO to destroy the desorbed pollutants. By using a concentrator, the resulting low flow rate, higher pollutant concentration stream is more economical to treat in an RTO than a high volume low concentration stream. The economics of operating a biological treatment unit could also potentially be improved in a similar manner by use of a concentrator.

We evaluated the annual cost and emissions reductions of using biological treatment to reduce HAP emissions at each of the four leather finishing operations subject to the Leather Finishing NESHAP. Annual costs for each facility ranged from $43,000 to $417,000 per year for a total of approximately $840,000 for the industry. Assuming a control efficiency of 85 percent, HAP emissions would be reduced by approximately 0.43 tpy for the facility with the smallest projected reduction to 14 tpy for the facility with the largest projected reduction, for a cumulative total of 18 tpy for the four facilities subject to the Leather Finishing NESHAP. To install biological treatment at each facility, the resulting cost effectiveness ranged from $30,000 to $110,000 per ton of HAP reduced. Considering the high costs per ton of HAP reduced associated with the installation of biological treatment, we did not consider this technology to be cost effective for further reducing HAP emissions from leather finishing operations.

During proposal of the Leather Finishing NESHAP, we considered the use of an RTO to control HAP emissions from leather finishing operations as a ''beyond-the-floor'' option; however, we rejected it because of a significantly higher cost per ton of emissions reductions (65 FR 58706). Our technology review revealed the use of a concentrator in addition to an RTO as a potential improvement in add-on control technology. We evaluated the annual cost and emissions reductions of using a rotary concentrator combined with an RTO and, as an alternative, a rotary concentrator combined with a

biological treatment unit for a model facility. Our analysis evaluated the annual costs of only the rotary concentrator on the basis that if operation of the concentrator is not cost effective, then operating both the concentrator and an RTO or biological treatment unit is also not cost effective. We calculated a total annual cost of operating the rotary concentrator of approximately $284,000 per year. Applying a control efficiency of 98 percent for the rotary concentrator and RTO, we calculated annual HAP emission reductions of 5.2 tpy. Assuming a control efficiency of 84 percent for the rotary concentrator and biological treatment combination, we calculated an annual HAP emission reduction of 4.5 tpy. The resulting cost-effectiveness values for the concentrator plus RTO and concentrator plus biological treatment are $54,000 and $62,000 per ton of HAP reduced, respectively; however, these dollar values only represent the cost of operating the concentrator and not the RTO or biological treatment process. Considering the high costs per ton of HAP reduced associated with only the operation of the rotary concentrator, we did not consider a concentrator and RTO or a concentrator and biological treatment to be cost effective for further reducing HAP emissions from leather finishing operations. Additional information about the assumptions and methodologies used in these calculations is documented in the memorandum titled *CAA section 112(d)(6) Technology Review for the Leather Finishing Operations Source Category* in the docket for this action.

Considering the results of the technology review, we conclude that changes to the leather finishing operations emission limits are not warranted pursuant to CAA section 112(d)(6). We are, therefore, not proposing to make any amendments to the existing NESHAP pursuant to CAA section 112(d)(6). We solicit comment on our proposed decision.

D. What other actions are we proposing?

In addition to the proposed actions described above, we are proposing additional revisions. We are proposing revisions to the SSM provisions of the MACT rule in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM. We also are proposing a process to increase the ease and efficiency of performance test data submittal while improving data accessibility through the use of electronic data reporting. Finally, we are proposing clarifications to the regulatory text. Our analyses and proposed changes related to these issues are discussed below.

1. Startup, Shutdown, and Malfunction Requirements

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

The Leather Finishing NESHAP currently requires that the standards apply at all times, consistent with *Sierra Club* v. *EPA.* The NESHAP specifies in 40 CFR 63.5320(a) ''All affected sources must be in compliance with the requirements of this subpart at all times, including periods of startup, shutdown, and malfunction.'' However, the NESHAP includes provisions related to SSM that are not consistent with *Sierra Club* v. *EPA or* 40 CFR 63.5320(a). For example, Table 2 to the Leather Finishing NESHAP (*i.e.,* the General Provisions applicability table, hereafter referred to as the ''General Provisions table to subpart TTTT'') incorporates all of the introductory paragraph to 40 CFR 63.6(e), which provides that the standards do not apply at all times: ''The general duty to minimize emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved.'' Further, the introductory paragraph to 40 CFR 63.6(e) refers to the SSM plan, which is not consistent with the NESHAP's exclusion (as specified in the General Provisions table to subpart TTTT) of the SSM plan in 40 CFR 63.6(e)(3), SSM recordkeeping in 40 CFR 63.10(b)(2), and SSM reporting in 40 CFR 63.10(d)(5). In order to remove these inconsistencies within the NESHAP, to clarify the EPA's original intent that the standards apply at all times, and to ensure that the subpart requirements are consistent with the court decision cited above, we are proposing to unincorporate all General Provisions related to the SSM exemption and move any applicable portion of these General Provisions to the NESHAP.

As is explained in more detail below, we are proposing two revisions to the General Provisions table to subpart TTTT to eliminate two General Provisions that include rule language providing an exemption for periods of SSM. Additionally, we are proposing to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. Finally, we are proposing to revise the Deviation Notification Report and related records as they relate to malfunctions, as further described below.

The EPA has attempted to ensure that the provisions we are proposing to eliminate are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether we have successfully done so.

The current rule specifies that the standards apply at all times. In promulgating the original NESHAP for Leather Finishing Operations, the EPA took into account startup and shutdown periods by applying a standard based on total coating used and HAP content and requiring a mass balance compliance method that was applicable for all operations, even periods of startup and shutdown. As a result, the EPA is not proposing any changes to the current requirement that all standards apply during those periods. However, as noted above and discussed further below, the current rule incorporates two general provisions that include rule language providing an exemption for periods of SSM, and the rule includes language that differentiates between normal operations, startup and shutdown, and malfunction events in describing the general duty, and these provisions are not necessary or appropriate in light of the requirement that the standards apply at all times. Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment. (40 CFR 63.2) (Definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of

malfunction to be factored into development of CAA section 112 standards and this reading has been upheld as reasonable by the Court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). Under CAA section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the Agency to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the Court has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner,'' and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

As the Court recognized in *U.S. Sugar Corp,* accounting for malfunctions in setting standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. Id. at 608 (''the EPA would have to conceive of a standard that could apply equally to the wide range of possible boiler malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances.''). As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' '') See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

Although no statutory language compels the EPA to set standards for malfunctions, the EPA has the discretion to do so where feasible. For example, in the Petroleum Refinery Sector RTR, the EPA established a work practice standard for unique types of malfunction that result in releases from pressure relief devices or emergency flaring events because we had information to determine that such work practices reflected the level of control that applies to the best performing sources. 80 FR 75178, 75211–14 (December 1, 2015). The EPA will consider whether circumstances warrant setting standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions. We also encourage commenters to provide any such information.

For the Leather Finishing Operations source category, it is unlikely that a malfunction would result in a violation of the standards. There are no instances where pollution control equipment could malfunction because none of the four leather finishing operations subject to the standard use pollution control equipment. Further, the standards are expressed as a yearly rolling average, and compliance is primarily dependent on the coating's HAP composition. Therefore, a malfunction of process equipment is not likely to result in a violation of the standards, and we have no information to suggest that it is feasible or necessary to establish standards for any type of malfunction associated with leather finishing operations. We encourage commenters to provide any such information.

In the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable, and was not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, CAA section 112, is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those

situations. *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016).

a. 40 CFR 63.5320(b) General Duty

We are proposing to revise the General Provisions table to subpart TTTT (table 2) entry for 40 CFR 63.6(e) by combining all of paragraph (e) into one row and changing the ''yes'' in column four to ''no.'' Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the existing requirement that the standards apply at all times, as specified in 40 CFR 63.5320(a). Additional language in 40 CFR 63.6(e)(1)(ii) imposes requirements that are not necessary if the SSM exemption does not apply. We are proposing instead to add general duty regulatory text at 40 CFR 63.5320(b) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. If the SSM exemption does not apply, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA is proposing for 40 CFR 63.5320(b) does not include that language from 40 CFR 63.6(e)(1).

b. 40 CFR 63.5360(b) Compliance With Standards

We are proposing to eliminate the sentence ''This includes periods of startup, shutdown, and malfunction.'' in 40 CFR 63.5360(b), which refers to the requirement to report each instance in which you, a source, did not meet the standard. This sentence was originally included to clarify the EPA's intent at the time regarding the standards applying at all times; however, this clarifying language is no longer necessary or appropriate in light of the proposed new General Duty language discussed in section IV.D.1.a of this preamble because the language differentiates between normal operations, startup and shutdown, and malfunction events.

c. 40 CFR 63.5380 Performance Testing

We are proposing to revise the General Provisions table to subpart TTTT (table 2) entry for 40 CFR 63.7(e)(1) by adding a separate row for 40 CFR 63.7(e)(1) and specifying ''no'' in column four. Section 63.7(e)(1) describes performance testing requirements. The EPA is instead proposing to add a performance testing requirement at 40 CFR 63.5380(b). The performance testing requirements we are proposing to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restates the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The proposed performance testing provisions will not allow performance testing during startup or shutdown. Note that no facilities subject to the Leather Finishing NESHAP will conduct a performance test because none use a control device to comply with the standards. Further, as in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal operating conditions. However, in eliminating this reference to 40 CFR 63.7(e) in the General Provisions table to subpart TTTT, we are removing a requirement that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test.'' The EPA is proposing to add a similar requirement back into the Leather Finishing NESHAP. The proposed language requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such records an explanation to support that such conditions represent normal operation. Section 63.7(e) does not specifically require the information to be recorded, but the regulatory text the EPA is proposing to add to 40 CFR 63.5380(b) builds on that requirement and makes explicit the requirement to record the information.

d. 40 CFR 63.5430 Recordkeeping

As discussed in section IV.D.1.e of this preamble, the EPA is proposing to revise the Deviation Notification Report to include two new reporting elements: (1) An estimate of the quantity of HAP emitted during the 12-month period of the report in excess of the standard, and (2) the cause of the events that resulted in the deviation from the standard (including unknown cause, if applicable). The EPA is proposing that any source submitting a Deviation Notification Report also keep a record of this information. The source would also be required to include a record of the actions taken to minimize emissions. The EPA is proposing to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard. Further, the EPA is clarifying related records already required under 40 CFR 63.5430(b) as part of the Deviation Notification Report under 40 CFR 63.5420(b)(3), but not clearly listed, by specifically listing those required records in 40 CFR 63.5430(h) as: (1) The 12-month period in which the exceedance occurred, and, (2) each type of leather product process operation performed during the 12-month period in which the exceedance occurred.

Finally, we are proposing to revise the General Provisions table to subpart TTTT (table 2) entry for 40 CFR 63.10(b)(2) to clarify the recordkeeping requirements for facilities that deviate from the standards as a result of a malfunction. In column five, we are proposing to replace the sentence ''Subpart TTTT has no recordkeeping requirements for startup, shutdown, and malfunction events'' with the phrase ''See § 63.5360 for CMS recordkeeping requirements if there is a deviation from the standard.'' This revision clarifies that certain records (*e.g.,* a record of the Deviation Notification Report) must be retained if there is a deviation from the standards due to a malfunction.

e. 40 CFR 63.5420 Reporting

We are proposing to revise the General Provisions table to subpart TTTT (table 2) entry for 40 CFR 63.10(d)(5) to clarify the reporting requirements for facilities that deviate from the standards as a result of a malfunction. In column five, we are proposing to replace the sentence ''Subpart TTTT has no startup, shutdown, and malfunction reporting requirements'' with the sentence ''See § 63.5420(b) for reporting requirements if there is a deviation from the standard.'' This revision clarifies that the Deviation Notification Report must be submitted if there is a deviation from the standards due to a malfunction. We are also proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the Deviation Notification Report already required under this rule. The Leather Finishing NESHAP currently requires this report to include (under 40 CFR 63.5420(b)(3)) each type of leather product process operation performed

during the 12-month period of the report. We are proposing a revision to 40 CFR 63.5420(b)(3) to clarify that this information should include an indication of the 12-month period of the report. We are also proposing that the report must contain two new reporting elements: (1) The cause of the events that resulted in the source failing to meet the standard as determined under 40 CFR 63.5330 (*i.e.,* the compliance ratio exceeds 1.00) during the 12-month period (including unknown cause, if applicable) and (2) an estimate of the quantity of HAP (in pounds) emitted during the 12-month period of the report in excess of the standard. As required in 40 CFR 63.5330, sources must determine compliance on a monthly basis based on a facility-wide average. Sources are required to establish on a monthly basis that the compliance ratio for the previous 12-month period is less than or equal to 1.00. This compliance ratio is calculated as required in 40 CFR 63.5330 by dividing the ''Actual HAP Loss'' (calculated as specified in 40 CFR 63.5335) by the ''Allowable HAP Loss'' (calculated as specified in 40 CFR 63.5340) (see Equation 1 of 40 CFR part 63, subpart TTTT). If the compliance ratio for the leather finishing operation exceeds 1.00, the source is ''deviating from compliance with the applicable HAP emission limits of subpart TTTT for the previous month'' as specified in 40 CFR 63.5330(b)(2), and is required to submit a Deviation Notification Report under 40 CFR 63.5420(b). We are proposing that such a source be required to estimate the quantity of HAP (in pounds) emitted during the 12-month period of the report in excess of the standard by subtracting the ''Allowable HAP Loss'' from the ''Actual HAP Loss.'' The difference between these two values would be the reported estimate of the quantity of HAP (in pounds) emitted during the 12-month period of the report in excess of the standard. The EPA is proposing these requirements to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

f. 40 CFR 63.5460 Definitions

We are proposing that the definition of ''Deviation'' be revised to remove language that was originally included to clarify the EPA's intent at the time regarding the standards applying at all times; however, it is no longer necessary or appropriate to use this language in light of the proposed new General Duty language discussed in section IV.D.1.a of this preamble because the language differentiates between normal operations, startup, and shutdown, and malfunction events. The current definition of ''Deviation'' is ''any instance in which an affected source subject to this subpart, or an owner or operator of such a source: (1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limits or work practice standards; or (2) fails to meet any emission limits, operating limits, or work practice standards in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.'' We are proposing to eliminate the second criteria for the reasons stated above. The proposed new definition reads: ''Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source, fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limits or work practice standards.''

2. Electronic Reporting Requirements

Through this proposal, the EPA is proposing that owners or operators of leather finishing operations submit electronic copies of required performance test reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The EPA believes that the electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability, will further assist in the protection of public health and the environment, and will ultimately result in less burden on the regulated community. Under current requirements, paper reports are often stored in filing cabinets or boxes, which make the reports more difficult to obtain and use for data analysis and sharing. Electronic storage of such reports make data more accessible for review, analysis, and sharing. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to affected facilities, air agencies, the EPA, and the public.

The EPA estimates that no existing leather finishing operation subject to the Leather Finishing NESHAP uses a control device to comply with the NESHAP. As such, no existing leather finishing operation is required to conduct performance tests or submit test reports, or would be required to submit electronic copies of test reports.

In 2011, in response to Executive Order 13563, the EPA developed a plan [16] to periodically review its regulations to determine if they should be modified, streamlined, expanded, or repealed in an effort to make regulations more effective and less burdensome. The plan includes replacing outdated paper reporting with electronic reporting. In keeping with this plan and the White House's Digital Government Strategy,[17] in 2013, the EPA issued an Agency-wide policy specifying that new regulations will require reports to be electronic to the maximum extent possible.[18] By requiring electronic submission of specified reports in this proposed rule, the EPA is taking steps to implement this policy.

The EPA Web site that stores the submitted electronic data, WebFIRE, is easily accessible to everyone and provides a user-friendly interface that any stakeholder can access. By making data readily available, electronic reporting increases the amount of data that can be used for many purposes. One example is the development of emissions factors. An emissions factor is a representative value that attempts to relate the quantity of a pollutant released to the atmosphere with an activity associated with the release of that pollutant (*e.g.,* kilograms of particulate emitted per megagram of coal burned). Such factors facilitate the estimation of emissions from various sources of air pollution and are an important tool in developing emissions inventories, which in turn are the basis for numerous efforts, including trends analysis, regional and local scale air quality modeling, regulatory impact assessments, and human exposure modeling. Emissions factors are also widely used in regulatory applicability determinations and in permitting decisions.

[16] EPA's *Final Plan for Periodic Retrospective Reviews,* August 2011. Available at: *https://www.epa.gov/laws-regulations/documents-retrospective-review.*

[17] *Digital Government: Building a 21st Century Platform to Better Serve the American People,* May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

[18] *E-Reporting Policy Statement for EPA Regulations,* September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

The EPA has received feedback from stakeholders asserting that many of the EPA's emissions factors are outdated or not representative of a particular industry emission source. While the EPA believes that the emissions factors are suitable for their intended purpose, we recognize that the quality of emissions factors varies based on the extent and quality of underlying data. We also recognize that emissions profiles on different pieces of equipment can change over time due to a number of factors (fuel changes, equipment improvements, industry work practices), and it is important for emissions factors to be updated to keep up with these changes. The EPA is currently pursuing emissions factor development improvements that include procedures to incorporate the source test data that we are proposing be submitted electronically. By requiring the electronic submission of the reports identified in this proposed action, the EPA would be able to access and use the submitted data to update emissions factors more quickly and efficiently, creating factors that are characteristic of what is currently representative of the relevant industry sector. Likewise, an increase in the number of test reports used to develop the emissions factors will provide more confidence that the factor is of higher quality and representative of the whole industry sector.

Additionally, by making the records, data, and reports addressed in this proposed rulemaking readily available, the EPA, the regulated community, and the public will benefit when the EPA conducts its CAA-required technology and risk-based reviews. As a result of having performance test reports and air emission data readily accessible, our ability to carry out comprehensive reviews will be improved and achieved within a shorter period of time. These data will provide useful information on control efficiencies being achieved and maintained in practice within a source category and across source categories for regulated sources and pollutants. These reports can also be used to inform the technology-review process by providing information on improvements to add-on control technology and new control technology.

Under an electronic reporting system, the EPA's OAQPS would have air emissions and performance test data in hand; OAQPS would not have to collect these data from the EPA Regional offices or from delegated air agencies or industry sources in cases where these reports are not submitted to the EPA Regional offices. Thus, we anticipate fewer or less substantial ICRs in conjunction with prospective CAA-required technology and risk-based reviews may be needed. We expect this to result in a decrease in time spent by industry to respond to data collection requests. We also expect the ICRs to contain less extensive stack testing provisions, as we will already have stack test data electronically. Reduced testing requirements would be a cost savings to industry. The EPA should also be able to conduct these required reviews more quickly, as OAQPS will not have to include the ICR collection time in the process or spend time collecting reports from the EPA Regional offices. While the regulated community may benefit from a reduced burden of ICRs, the general public benefits from the agency's ability to provide these required reviews more quickly, resulting in increased public health and environmental protection.

Electronic reporting minimizes submission of unnecessary or duplicative reports in cases where facilities report to multiple government agencies and the agencies opt to rely on the EPA's electronic reporting system to view report submissions. Where air agencies continue to require a paper copy of these reports and will accept a hard copy of the electronic report, facilities will have the option to print paper copies of the electronic reporting forms to submit to the air agencies, and, thus, minimize the time spent reporting to multiple agencies. Additionally, maintenance and storage costs associated with retaining paper records could likewise be minimized by replacing those records with electronic records of electronically submitted data and reports.

Air agencies could benefit from more streamlined and automated review of the electronically submitted data. For example, because performance test data would be readily-available in a standard electronic format, air agencies would be able to review reports and data electronically rather than having to conduct a review of the reports and data manually. Having reports and associated data in electronic format facilitates review through the use of software ''search'' options, as well as the downloading and analyzing of data in spreadsheet format. Additionally, air agencies would benefit from the reported data being accessible to them through the EPA's electronic reporting system wherever and whenever they want or need access (as long as they have access to the Internet). The ability to access and review reports electronically assists air agencies in determining compliance with applicable regulations more quickly and accurately, potentially allowing a faster response to violations, which could minimize harmful air emissions. This benefits both air agencies and the general public.

The proposed electronic reporting of data is consistent with electronic data trends (*e.g.,* electronic banking and income tax filing). Electronic reporting of environmental data is already common practice in many media offices at the EPA. The changes being proposed in this rulemaking are needed to continue the EPA's transition to electronic reporting.

Additionally, we have identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept your claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

In 40 CFR 63.5420(c)(4), we address the situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI which preclude you from accessing the system and submitting required reports. If either the CDX or CEDRI is unavailable at any time beginning 5 business days prior to the date that the submission is due, and the unavailability prevents you from submitting a report by the required date, you may assert a claim of EPA system outage. We consider 5 business days prior to the reporting deadline to be an appropriate timeframe because, if the system is down prior to this time, you still have one week to complete reporting once the system is back online. However, if the CDX or CEDRI is down during the week a report is due, we realize that this could greatly impact your ability to submit a required report on time. We will notify you about known outages as far in advance as possible by CHIEF Listserv notice, posting on the CEDRI Web site, and posting on the CDX Web site so that you can plan accordingly and still meet your reporting deadline. However, if a planned or unplanned outage occurs and you believe that it will affect or it has affected your ability to comply with an electronic reporting requirement, we have provided a process to assert such a claim.

In 40 CFR 63.5420(c)(5), we address the situation where an extension may be warranted due to a force majeure event, which is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically as required by this rule.

Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. If such an event occurs or is still occurring or if there are still linger effects of the event in the five business days prior to a submission deadline, we have provided a process to assert a claim of force majeure.

We are proposing these potential extensions to protect facilities from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control as described above. We are not proposing an extension for other instances. Facilities should register for CEDRI far in advance of the initial compliance date, in order to make sure that they can complete the identity proofing process prior to the initial compliance date. Additionally, we recommend facilities start developing reports early, in case any questions arise during the reporting process.

3. Clarifications and Correction to the Rule

We are proposing revisions to clarify the monitoring, recordkeeping, and reporting requirements for control devices and the provisions for alternative schedules. We are also proposing one correction to the rule. Our proposed changes related to these issues are discussed below.

Since the original Leather Finishing NESHAP was promulgated, no leather finishing operations have elected to use a control device to comply with the standards, and we do not anticipate that any facilities will elect to use a control device in the foreseeable future; however, we are taking this opportunity to propose clarifying text to assist any facility that elects in the future to use a control device to comply with the standards. Currently, the Leather Finishing NESHAP (*i.e.,* in 40 CFR 63.5360(a)(2)) requires facilities using a control device to comply with the NEHSAP to meet the requirements in ''40 CFR part 63, subpart SS''; however, the Leather Finishing NESHAP does not provide any reference to the applicable section within subpart SS. To aid a facility in locating the requirements in subpart SS, we are proposing to replace the current general reference to subpart SS with a more specific reference to ''40 CFR 63.982(a)(2) (subpart SS),'' which provides all applicable requirements for control devices (*e.g.,* monitoring requirements, data reduction procedures, and recordkeeping and reporting requirements). This proposed change would affect both 40 CFR 63.5360(a)(2) and 63.5430(g). We are also proposing related revisions to the General Provisions table to subpart TTTT (table 2). For table entry 40 CFR 63.8, we propose to replace the text ''Subpart TTTT does not require monitoring other than as specified therein'' in the fifth column with the text ''See § 63.5360(a)(2) for monitoring requirements.'' For table entries 40 CFR 63.9(g), 63.10(c), and 63.10(e), we propose to replace the text ''Subpart TTTT does not require CMS'' in the fifth column with the text ''See § 63.5360(a)(2) for monitoring requirements.'' These revisions would clarify that monitoring requirements apply if a facility were to elect to use a control device to comply with the standard. Further, in 40 CFR 63.5375, we are proposing to change the rule language ''and can be used to comply with the HAP emission requirements of this subpart'' to ''and will be used to comply with the HAP emission requirements of this subpart'' because ''can'' could be interpreted to require a facility that owns a control device, which is not used to comply with the Leather Finishing NESHAP, but could be used to comply with the NESHAP (*e.g.,* the control device is used to comply with a different regulation in its operating permit), to be required to conduct the performance test required in 40 CFR 63.5375, even though the device is not used to comply with the NESHAP.

We are also proposing to clarify in two ways the language in 40 CFR 63.5420(b)(4) regarding alternative schedules. First, by replacing ''responsible agency'' with ''Administrator,'' because ''Administrator'' is defined in 40 CFR 63.2 to include ''a State that has been delegated the authority to implement the provisions of this part'' (and the definition is incorporated by the Leather Finishing NESHAP). Second, by replacing ''does not object'' with ''approves an alternative schedule'' in order to require an affirmative action by the Administrator rather than affirmation by non-action.

Finally, we are proposing a correction to the title of Table 2 to 40 CFR part 63, subpart TTTT. The current title is ''Table 2 to Subpart TTTT of Part 63—Leather Finishing HAP Emission Limits for Determining the Allowable HAP Loss,'' and the proposed title is ''Table 2 to Subpart TTTT of Part 63—Applicability of General Provisions to Subpart TTTT.''

E. What compliance dates are we proposing?

The EPA is proposing that all of the amendments being proposed in this action would be effective upon publication of the final rule. The tasks necessary for existing facilities to comply with these proposed amendments related to SSM periods would require no time or resources. No facilities will be subject to the requirement to submit reports electronically. Therefore, the EPA believes that existing facilities will be able to comply with these proposed amendments related to SSM periods and the use of the electronic reporting tool (ERT), as soon as the final rule is effective, which will be the date of publication of the final rule. The EPA is specifically soliciting comment and additional data on the burden of complying with these proposed amendments.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

The EPA determined that four leather finishing operations are currently subject to the Leather Finishing NESHAP. This determination was based on reviews on various online databases and information sources, as well as permits, company Web sites, and other online sources as discussed in section 3.2 of the memorandum titled *Leather Finishing: Residual Risk Modeling File Supporting Documentation* in the docket for this action. The EPA estimates that all four leather finishing operations currently subject to the Leather Finishing NESHAP would be affected by the proposed requirement to review the final rulemaking, and none of the facilities would be affected by the proposed revisions to recordkeeping and reporting requirements related to the Deviation Notification Report or electronic reporting of performance tests. The EPA is not currently aware of any planned or potential new or reconstructed leather finishing operations.

B. What are the air quality impacts?

The EPA estimates that annual organic HAP emissions from the four leather finishing operations subject to the rule are approximately 22.5 tpy. In this proposal, we recommend no new emission limits and require no additional controls; therefore, no air quality impacts are expected as a result of the proposed amendments.

C. What are the cost impacts?

The four leather finishing operations subject to this proposal will incur costs to review the final rule. Nationwide annual costs associated with the proposed requirements are estimated to be a total of $705 for the initial year only. We believe that the four leather finishing operations which are known to be subject to this proposed rule can meet these proposed requirements without incurring additional capital or operational costs. Therefore, the only costs associated with this proposed rule are related to reviewing the rule. For further information on the proposed requirements for this rule, see section IV of this preamble. For further information on the costs associated with the proposed requirements of this rule, see the document titled *Supporting Statement for Leather Finishing Operations* and the memorandum titled *Costs for the Leather Finishing Operations Source Category Risk and Technology Review, both in the docket for this action.* The memorandum titled *CAA section 112(d)(6) Technology Review for the Leather Finishing Source Category* in the docket for this action. These documents present cost estimates associated with the regulatory options that were not selected for inclusion in this proposed rule.

D. What are the economic impacts?

The total national cost to comply with this proposed rule is estimated to be $705 in 2016 dollars, which is a one-time cost that will be incurred in the first year following promulgation of the final amendments. There are no additional emission control costs or additional emission reductions associated with this rule. The estimated cost of $705 is comprised of equal costs incurred by each of the four affected facilities, with each facility estimated to incur one-time labor costs of approximately $176 in order to become familiar with the rule. These costs are not expected to result in business closures, significant price increases, or substantial profit loss. No impacts on employment are expected given the minimal economic impact of the action on the affected firms. For further information on the economic impacts associated with the proposed requirements of this rule, see the memorandum titled *Proposal Economic Impact Analysis for the Reconsideration of the Risk and Technology Review: Leather Finishing Operations Source Category* in the docket for this action.

E. What are the benefits?

While the proposed amendments would not result in reductions in emissions of HAP, this action, if finalized, will improve implementation of the Leather Finishing NESHAP by clarifying the rule requirements as discussed in sections IV.D.1 and 3 of this preamble. Also, by adding electronic reporting of test reports for any control devices used to comply with the rule will provide the benefits discussed in section IV.D.2 of this preamble, including assisting state and local agencies that elect to use ERT to track compliance of the rule.

VI. Request for Comments

We solicit comments on all aspects of this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

VII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available for download on the RTR Web site at *http://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern, and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR Web site, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (*i.e.,* commenter name, commenter organization, commenter email address, commenter phone number, and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations, etc.).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID No. EPA–HQ–OAR–2003–0194 (through the method described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility (or facilities). We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR Web site at *http://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to OMB for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 1985.07. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

Proposed costs are to review the final rule in the initial year. We are proposing no new reporting or recordkeeping requirements to the Leather Finishing Operations source category.

Respondents/affected entities: Leather Finishing Operations.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart TTTT).

Estimated number of respondents: Four leather finishing operations.

Frequency of response: Initially.

Total estimated burden: 9 hours (per year) for the responding facilities and 0 hours (per year) for the Agency.

Total estimated cost: $705 (per year).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than April 13, 2018. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses. The Agency has determined that each of the three small entities impacted by this action may experience an impact of less than 0.01 percent of sales. Details of this analysis are presented in the memorandum titled *Proposal Economic Impact Analysis for the Reconsideration of the Risk and Technology Review: Leather Finishing Operations Source Category* in the docket for this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531– 1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It 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.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in the leather finishing operations industry that would be affected by this action. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III and IV of this preamble and further documented in the risk report titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule* in the docket for this action.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. Therefore, the EPA conducted searches for the Leather Finishing Operations Sector Risk and Technology Review through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute. We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 24 and 311. The following VCS were identified as potentially acceptable alternatives to the EPA test methods for the purpose of this rule.

The VCS California Air Resources Board (CARB) Method 310 ''Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products'' was identified as potentially applicable for EPA Method 311. The EPA decided not to use this VCS because the method is impractical as an alternative to EPA Method 311 because it targets chemicals that are VOC and are not HAP.

Five VCS were identified as potentially applicable for EPA Method 24, as follows:

- ASTM D2369–01 ''Standard Test Method for Volatile Content of Coatings'';
- ASTM D2697–86 (1998) ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings'';
- ASTM D6093–97 (Reapproved 2003) ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer'';
- ASTM D2111–95 (2000) ''Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures''; and
- ASTM D1963–85 (1996) Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25°C.

The EPA is proposing not to use these methods. The use of ASTM D2369–01, ASTM D2697–86 (1998), ASTM D6093–97 (Reapproved 2003), and ASTM D1963–85 (1996) would be impractical for this NESHAP because they address only a portion of Method 24 and do not address density, which is the only portion of Method 24 used for compliance with the Leather Finishing NESHAP. Further, though ASTM D2111–95 (2000), ''Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures,'' provides an alternative method for measuring density, this version of the ASTM method has expired. A thorough summary of the search conducted and results are included in the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations* in the docket for this action.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (58 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.A of this preamble and the technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Leather Finishing Operations* in the docket for this action.

As discussed in section IV.A of this preamble, we performed a demographic analysis, which is an assessment of risks to individual demographic groups, of the population close to the facilities (within 50 km and within 5 km). In this analysis, we evaluated the distribution of HAP-related cancer risks and

noncancer hazards from the leather finishing operations across different social, demographic, and economic groups within the populations living near operations identified as having the highest risks.

The analysis indicates that the minority population living within 50 km (4,632,781 people, of which 25 percent are minority) and within 5 km (158,482 people, of which 13 percent are minority) of the four leather finishing operations facilities is less than the minority population found nationwide (38 percent). The proximity results indicate that the population percentage for the ''Native American'' demographic group within 5 km of leather finishing operations emissions is slightly greater than the corresponding nationwide percentage for that same demographic. The percentage of people ages 65 and older residing within 5 km of leather finishing operations (18 percent) is 4 percentage points higher than the corresponding nationwide percentage (14 percent). The other demographic groups included in the assessment within 5 km of leather finishing operations emissions were the same or lower than the corresponding nationwide percentages.

When examining the cancer risk levels of those exposed to emissions from the four leather finishing operations, we find that there are no people within a 50-km radius of modeled facilities exposed to a cancer risk greater than or equal to 1-in-1 million as a result of emissions from leather finishing operations. When examining the noncancer risk levels, we find that there are no people within a 50-km radius of modeled facilities exposed to a noncancer risk (in this analysis, reproductive HI) greater than 1 as a result of emissions from leather finishing operations.

The EPA has determined that this proposed rule does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples because the health risks based on actual emissions are low (below 2-in-1 million), the population exposed to risks greater than 1-in-1 million is relatively small (750 persons), and the rule maintains or increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low-income, or indigenous populations. Further, the EPA believes that implementation of this rule will provide an ample margin of safety to protect public health of all demographic groups.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 28, 2018.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble, the Environmental Protection Agency proposes to amend title 40, chapter I, part 63 of the Code of Federal Regulations 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 TTTT—National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations

■ 2. Section 63.5320 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.5320 How does my affected major source comply with the HAP emission standards?

(a) All affected sources must be in compliance with the requirements of this subpart at all times.

(b) At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

* * * * *

■ 3. Section 63.5360 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 63.5360 How do I demonstrate continuous compliance with the emission standards?

(a) * * *

(2) If you use an emission control device, you must comply with 40 CFR part 63.982(a)(2) (subpart SS) and collect the monitoring data as specified therein.

* * * * *

(b) You must report each instance in which you did not meet the emission standards in § 63.5305. These deviations must be reported according to the requirements in § 63.5420(b).

* * * * *

■ 4. Section 63.5375 is revised to read as follows:

§ 63.5375 When must I conduct a performance test or initial compliance demonstration?

You must conduct performance tests after the installation of any emission control device that reduces HAP emissions and will be used to comply with the HAP emission requirements of this subpart. You must complete your performance tests not later than 60 calendar days before the end of the 12-month period used in the initial compliance determination.

■ 5. Section 63.5380 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.5380 How do I conduct performance tests?

(a) Each performance test must be conducted according to the requirements in § 63.7(e)(2) through (4) and the procedures of § 63.997(e)(1) and (2).

(b) Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 6. Section 63.5420 is amended by revising the introductory text of paragraph (b) and paragraphs (b)(3) and

(4), and adding paragraphs (b)(5), (b)(6), and (c) to read as follows:

§ 63.5420 What reports must I submit and when?

* * * * *

(b) You must submit a Deviation Notification Report for each compliance determination you make in which the compliance ratio exceeds 1.00, as determined under § 63.5330. Submit the deviation report by the fifteenth of the following month in which you determined the deviation from the compliance ratio. The Deviation Notification Report must include the items in paragraphs (b)(1) through (6) of this section:

* * * * *

(3) The 12-month period covered by the report and each type of leather product process operation performed during the 12-month period.

(4) The compliance ratio comprising the deviation. You may reduce the frequency of submittal of the Deviation Notification Report if the Administrator of these NESHAP approves an alternative schedule.

(5) An estimate of the quantity of HAP (in pounds) emitted during the 12 months specified in paragraph (b)(3) of this section in excess of the allowable HAP loss. Calculate this estimate of excess emissions by subtracting the allowable HAP loss determined as specified in § 63.5340 from the actual HAP loss determined as specified in § 63.5335.

(6) The cause of the events that resulted in the source failing to meet an applicable standard (including unknown cause, if applicable).

(c) Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (c)(1) through (3) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronicreporting-air-emissions/electronicreporting-tool-ert*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13 unless the Administrator agrees to or specifies an alternate reporting method.

(3) If you claim that some of the performance test information being submitted under paragraph (c)(1) is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a compact disc, flash drive or other commonly used electronic storage medium to the EPA. The electronic medium must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (c)(1) of this section.

(4) If you are required to electronically submit a report through the Compliance and Emissions Data Reporting Interface (CEDRI) in the EPA's Central Data Exchange (CDX), and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.*, hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.*, large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 7. Section 63.5430 is amended by revising the introductory text and paragraph (g), and adding paragraphs (h) and (i) to read as follows:

§ 63.5430 What records must I keep?

You must satisfy the recordkeeping requirements in paragraphs (a) through (i) of this section by the compliance date specified in § 63.5295.

* * * * *

(g) If you use an emission control device, you must keep records of monitoring data as specified at § 63.982(a)(2) (subpart SS).

(h) In the event that the compliance ratio exceeded 1.00, as determined under § 63.5330, keep a record of the information specified in paragraphs (h)(1) through (5) of this section for each exceedance.

(1) The 12-month period in which the exceedance occurred, as reported in § 63.5420(b).

(2) Each type of leather product process operation performed during the 12-month period in which the exceedance occurred, as reported in § 63.5420(b).

(3) Estimate of the quantity of HAP (in pounds) emitted during the 12 months specified in § 63.5420(b)(3) in excess of the allowable HAP loss, as reported in § 63.5420(b).

(4) Cause of the events that resulted in the source failing to meet an applicable standard (including unknown cause, if applicable), as reported in § 63.5420(b).

(5) Actions taken to minimize emissions in accordance with § 63.5320(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(i) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 8. Section 63.5460 is amended by revising the definition for ''Deviation'' to read as follows:

§ 63.5460 What definitions apply to this subpart?

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limits or work practice standards.

* * * * *

■ 9. Table 2 to Subpart TTTT of Part 63 is revised to read as follows:

Table 2 to Subpart TTTT of Part 63—Applicability of General Provisions to Subpart TTTT

As required in § 63.5450, you must meet the appropriate NESHAP General Provision requirements in the following table:

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes.	
§ 63.2	Definitions	Definitions for Part 63 standards	Yes	Except as specifically provided in this subpart.
§ 63.3	Units and abbreviations.	Units and abbreviations for Part 63 standards.	Yes.	
§ 63.4	Prohibited activities and circumvention.	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§ 63.5	Construction/reconstruction.	Applicability; applications; approvals	Yes	Except for paragraphs of § 63.5 as listed below.
§ 63.5(c)	[Reserved].			
§ 63.5(d)(1)(ii)(H)	Application for approval.	Type and quantity of HAP, operating parameters.	No	All sources emit HAP. Subpart TTTT does not require control from specific emission points.
§ 63.5(d)(1)(i)	[Reserved].			
§ 63.5(d)(1)(iii), (d)(2), (d)(3)(ii).		Application for approval	No	The requirements of the application for approval for new and reconstructed sources are described in § 63.5320(b). General provision requirements for identification of HAP emission points or estimates of actual emissions are not required. Descriptions of control and methods, and the estimated and actual control efficiency of such do not apply. Requirements for describing control equipment and the estimated and actual control efficiency of such equipment apply only to control equipment to which the subpart TTTT requirements for quantifying solvent destroyed by an add-on control device would be applicable.
§ 63.6	Applicability of general provisions.	Applicability of general provisions	Yes	Except for paragraphs of § 63.6 as listed below.
§ 63.6(b)(1)–(3)	Compliance dates, new and reconstructed sources.		No	Section § 63.5283 specifies the compliance dates for new and reconstructed sources.
§ 63.6(b)(6)	[Reserved].			
§ 63.6(c)(3)–(4)	[Reserved].			
§ 63.6(d)	[Reserved].			
§ 63.6(e)(1)	Operation and maintenance requirements.		No	See § 63.5320(b) for general duty requirement.
§ 63.6(e)(2)	[Reserved].			

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.6(e)(3)	Operation and maintenance requirements.	Startup, shutdown, and malfunction plan requirements.	No	Subpart TTTT does not have any start-up, shutdown, and malfunction plan requirements.
§ 63.6(f)–(g)	Compliance with nonopacity emission standards except during SSM.	Comply with emission standards at all times except during SSM.	No	Subpart TTTT does not have nonopacity requirements.
§ 63.6(h)	Opacity/visible emission (VE) standards.		No	Subpart TTTT has no opacity or visual emission standards.
§ 63.6(i)	Compliance extension.	Procedures and criteria for responsible agency to grant compliance extension.	Yes.	
§ 63.6(j)	Presidential compliance exemption.	President may exempt source category from requirement to comply with subpart.	Yes.	
§ 63.7	Performance testing requirements.	Schedule, conditions, notifications and procedures.	Yes	Except for paragraphs of § 63.7 as listed below. Subpart TTTT requires performance testing only if the source applies additional control that destroys solvent. § 63.5311 requires sources to follow the performance testing guidelines of the General Provisions if a control is added.
§ 63.7(a)(2) (i) and (iii).	Performance testing requirements.	Applicability and performance dates	No	§ 63.5310(a) of subpart TTTT specifies the requirements of performance testing dates for new and existing sources.
§ 63.7(e)(1)	Conduct of performance tests.	Defines representative conditions; provides an exemption from the standards for periods of startup, shutdown, and malfunction; requires that, upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.	No	See § 63.5380.
§ 63.8	Monitoring requirements.	Applicability, conduct of monitoring, operation and maintenance, quality control, performance evaluations, use of alternative monitoring method, reduction of monitoring data.	No	See § 63.5360(a)(2) for monitoring requirements.
§ 63.9	Notification requirements.	Applicability and State delegation	Yes	Except for paragraphs of § 63.9 as listed below.
§ 63.9(e)	Notification of performance test.	Notify responsible agency 60 days ahead	Yes	Applies only if performance testing is performed.
§ 63.9(f)	Notification of VE/opacity observations.	Notify responsible agency 30 days ahead	No	Subpart TTTT has no opacity or visual emission standards.
§ 63.9(g)	Additional notifications when using a continuous monitoring system (CMS).	Notification of performance evaluation; notification using COMS data; notification that exceeded criterion for relative accuracy.	No	See § 63.5360(a)(2) for CMS requirements.
§ 63.9(h)	Notification of compliance status.	Contents	No	§ 63.5320(d) specifies requirements for the notification of compliance status.
§ 63.10	Recordkeeping/reporting.	Schedule for reporting, record storage	Yes	Except for paragraphs of § 63.10 as listed below.
§ 63.10(b)(2)	Recordkeeping	CMS recordkeeping; CMS records of startup, shutdown, and malfunction events.	No	See § 63.5360 for CMS recordkeeping requirements, except see 63.5430(h) for CMS recordkeeping requirements if there is a deviation from the standard.
§ 63.10(c)	Recordkeeping	Additional CMS recordkeeping	No	See § 63.5360(a)(2) for CMS recordkeeping requirements.
§ 63.10(d)(2)	Reporting	Reporting performance test results	Yes	Applies only if performance testing is performed.
§ 63.10(d)(3)	Reporting	Reporting opacity or VE observations	No	Subpart TTTT has no opacity or visible emission standards.
§ 63.10(d)(4)	Reporting	Progress reports	Yes	Applies if a condition of compliance extension.
§ 63.10(d)(5)	Reporting	Startup, shutdown, and malfunction reporting.	No	See § 63.5420(b) for reporting requirements if there is a deviation from the standard.

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.10(e)	Reporting	Additional CMS reports	No	See § 63.5360(a)(2) for monitoring requirements.
§ 63.11	Control device requirements.	Requirements for flares	Yes	Applies only if your source uses a flare to control solvent emissions. Subpart TTTT does not require flares.
§ 63.12	State authority and delegations.	State authority to enforce standards	Yes.	
§ 63.13	State/regional addresses.	Addresses where reports, notifications, and requests are sent.	Yes.	
§ 63.14	Incorporation by reference.	Test methods incorporated by reference	Yes.	
§ 63.15	Availability of information and confidentiality.	Public and confidential information	Yes.	

[FR Doc. 2018–04939 Filed 3–13–18; 8:45 am]

BILLING CODE 6560–50–P