

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6967-5]

RIN 2060-AD94

National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: Under the Clean Air Act (CAA), the EPA issued a final rule entitled, "National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries" (Petroleum Refineries NESHAP) published in the **Federal Register** on August 18, 1995 (60 FR 43260). A subsequent direct final rule, published on June 12, 1996 (61 FR 29876) corrected errors and clarified regulatory text of the Petroleum

Refineries NESHAP. This action will correct an error in the amendatory instructions of the 1996 direct final rule amendments. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this technical correction without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the Petroleum Refineries NESHAP. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

EFFECTIVE DATE: May 25, 2001.

ADDRESSES: Docket No. A-93-48 contains the supporting information used in the development of this rulemaking. The docket is located at the U.S. EPA in room M-1500, Waterside Mall (ground floor), 401 M Street SW., Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James Durham, Waste and Chemical Processes Group, Emission Standards Division (MD-13), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5672, facsimile number: (919) 541-0246, electronic mail address: durham.jim@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities*. The entities potentially affected by this technical correction include:

Category	SIC code	NAIC	Examples of regulated entities
Industry .....	2911	32411	Petroleum Refineries.
Federal Government .....			Not Affected.
State/Local/Tribal Government .....			Not Affected.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this technical correction. This table lists the types of entities that we are now aware could potentially be regulated by this technical correction. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this technical correction, you should carefully examine the applicability criteria in the rule. If you have questions regarding the applicability of this technical correction to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*World Wide Web (WWW)*. In addition to being available in the docket, an electronic copy of today's technical correction will be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this technical correction will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is

needed, call the TTN HELP line at (919) 541-5384.

I. Background and Description of Correction

On August 18, 1995, the EPA promulgated the Petroleum Refineries NESHAP (60 FR 43260). On June 12, 1996, the EPA published in the **Federal Register** correcting amendments to the promulgated rule (61 FR 29876). Due to an error in the amendatory instructions in the correcting amendments, § 63.640(b)(1) and (2) were inadvertently removed from 40 CFR part 63, subpart CC. This technical correction adds those paragraphs back into the regulatory text.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this technical correction is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget (OMB). Because the EPA has made a "good cause" finding that this technical correction is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the

Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this technical correction does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This technical correction also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This technical correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This technical correction also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272) do not apply. This technical correction also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this technical correction, EPA has taken the necessary

steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of these rule amendments in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the Petroleum Refineries NESHAP.

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, the EPA has made such a good cause finding, including the reasons therefor, and established an effective date of May 25, 2001. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the technical correction in the **Federal Register**. This technical correction is not a "major rule" as defined by 5 U.S.C. 804(2).

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

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

Dated: April 9, 2001.

**Robert D. Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

#### PART 63—[AMENDED]

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

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

#### Subpart CC—[Amended]

2. Section 63.640 is amended by revising paragraph (b) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) If the predominant use of the flexible operation unit, as described in paragraphs (b)(1)(i) and (ii) of this section, is as a petroleum refining process unit, as defined in § 63.641, then the flexible operation unit shall be subject to the provisions of this subpart.

(i) Except as provided in paragraph (b)(1)(ii) of this section, the predominant use of the flexible operation unit shall be the use representing the greatest annual operating time.

(ii) If the flexible operation unit is used as a petroleum refining process unit and for another purpose equally based on operating time, then the predominant use of the flexible operation unit shall be the use that produces the greatest annual production on a mass basis.

(2) The determination of applicability of this subpart to petroleum refining process units that are designed and operated as flexible operation units shall be reported as specified in § 63.654(h)(6)(i).

\* \* \* \* \*

[FR Doc. 01-13276 Filed 5-24-01; 8:45 am]

**BILLING CODE 6560-50-P**

#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Parts 1 and 68**

[WT Docket No. 99-217; CC Docket No. 96-98; CC Docket No. 88-57; FCC 00-366]

#### **Effective Date Established for Amendments to the Commission's Rules on Over-the-Air Reception Devices and the Definition of the Telecommunications Network Demarcation Point**

**AGENCY:** Federal Communications Commission, Wireless Telecommunications Bureau.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Federal Communications Commission ("the Commission") announces that regulations adopted in the *Competitive Networks Order* of October 12, 2000 (Competitive Networks Order), amending the Commission's rules governing restrictions on placement of over-the-air reception ("OTARDs") devices and the definitions of the telecommunications network demarcation point have been approved by the Office of Management and Budget (OMB).

**DATES:** The rule changes to § 1.4000 which published on January 11, 2001 (66 FR 2333) and §§ 68.3 and 68.105, which published on January 24, 2001 (66 FR 7581) are effective May 25, 2001.

**FOR FURTHER INFORMATION CONTACT:** Lauren Van Wazer at (202) 418-0030 or Leon Jackler at (202) 418-0946 of the Wireless Telecommunications Bureau.

**SUPPLEMENTARY INFORMATION:** On October 12, 2000, the Commission adopted the Competitive Networks Order in 47 CFR Parts 1, 64 and 68, in WT Docket No. 99-217; CC Docket No. 96-98; CC Docket No. 88-57; FCC 00-366 (66 FR 2322) to foster competition in local communications markets by implementing measures to ensure that competing telecommunications providers are able to provide services to consumers in multiple tenant environments. The rule changes to 47 CFR 64.2500; 64.2501; and 64.2502, which published on January 11, 2001 (66 FR 2322) went into effect on March 12, 2001.

2. However, some of the regulations adopted in the *Competitive Networks Order* included information collections that required the approval of OMB pursuant to Public Law 104-13 (1995). The Competitive Networks Order explained that effectiveness of the rules requiring an information collection was