■ 3. Section 199.15 is amended by revising paragraphs (b)(4)(i)(B) and (b)(4)(ii)(D) to read as follows:

§ 199.15 Quality and utilization review peer review organization program.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(B) For healthcare services provided under TRICARE contracts entered into by the Department of Defense after October 30, 2000, medical necessity preauthorization will not be required for referrals for specialty consultation appointment services requested by primary care providers or specialty providers when referring TRICARE Prime beneficiaries for specialty consultation appointment services within the TRICARE contractor's network. However, the lack of medical necessity preauthorization requirements for consultative appointment services does not mean that non-emergent admissions or invasive diagnostic or therapeutic procedures which in and of themselves constitute categories of health care services related to, but beyond the level of the consultation appointment service, are not subject to medical necessity prior authorization. In fact many such health care services may continue to require medical necessity prior authorization as determined by the Director, TRICARE Management Activity, or a designee. TRICARE Prime beneficiaries are also required to obtain preauthorization before seeking health care services from a non-network provider.

(ii) * * *

(D) For healthcare services provided under TRICARE contracts entered into by the Department of Defense after October 30, 2000, medical necessity preauthorization for specialty consultation appointment services within the TRICARE contractor's network will not be required. However, the Director, TRICARE Management Activity, or designee, may continue to require or waive medical necessity prior (or pre) authorization for other categories of other health care services based on best business practice.

* * * * *

■ 4. Section 199.17 is amended by revising paragraph (n)(2)(ii)(B) to read as follows:

§ 199.17 TRICARE program.

* * * * *

(n) * * *

(2) * * *

(ii) * * *

(B) For healthcare services provided under TRICARE contracts entered into by the Department of Defense on or after October 30, 2000, referral requests (consultation requests) for specialty care consultation appointment services for TRICARE Prime beneficiaries must be submitted by primary care managers. Such referrals will be authorized by Health Care Finders (authorization numbers will be assigned so as to facilitate claims processing) but medical necessity preauthorization will not be required for referral consultation appointment services within the TRICARE contractor's network. Some health care services subsequent to consultation appointments (invasive procedures, nonemergent admissions and other health care services as determined by the Director, TRICARE Management Activity, or a designee) will require medical necessity preauthorization. Though referrals for specialty care are generally the responsibility of the primary care managers, subject to discretion exercised by the TRICARE Regional Directors, and established in regional policy or memoranda of understanding, specialist providers may be permitted to refer patients for additional specialty consultation appointment services within the TRICARE contractor's network without prior authorization by primary care managers or subject to medical necessity preauthorization.

* * * * *

Dated: April 7, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–7361 Filed 4–12–05; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2004–0411; AD–FRL–7899–1]

RIN 2060–AK80

National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards; and National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rules; amendments.

SUMMARY: The EPA is taking direct final action on amendments to the National Emissions Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Control Technology Standards which were promulgated in June 1999 (64 FR 34863), and the National Emission Standards for Ethylene Manufacturing Units: Heat Exchange Systems and Waste Operations which were promulgated in July 2002 (67 FR 46258). The direct final rule amendments clarify the compliance requirements for benzene waste streams, clarify the requirements for heat exchangers and heat exchanger systems, and stipulate the provisions for offsite waste transfer in the national emission standards for ethylene manufacturing process units. The direct final rule amendments also correct the regulatory language that make emissions from ethylene cracking furnaces during decoking operations an exception to the provisions and delineate overlapping requirements for storage vessels and transfer racks.

In addition, the direct final rule amendments also correct errors in the proposed rule for the Acrylic and Modacrylic Fiber Production source category which were not corrected as indicated in the preamble to the June 1999 final rule (64 FR 34863).

We are issuing the amendments as direct final rules, without prior proposal, because we view the revisions as noncontroversial and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the National Emissions Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Control Technology Standards and the National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

DATES: The direct final rule amendments are effective on June 13, 2005 without further notice, unless EPA receives adverse written comment by May 31, 2005. If adverse comments are received, EPA will publish a timely withdrawal in the **Federal Register** indicating which of the amendments will become effective, and which are being withdrawn due to adverse comment.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2004–0411, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Agency Web site: http://www.epa.gov/edocket*. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for

receiving comments. Follow the on-line instructions for submitting comments.

- *E-mail: a-and-r-docket@epa.gov*.
- *Fax:* (202) 566–1741.
- *Mail:* EPA Docket Center, EPA, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible.
- *Hand Delivery:* Air and Radiation Docket, EPA, 1301 Constitution Avenue, NW., Room B–108, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. OAR–2004–0411. 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.epa.gov/edocket*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail 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, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket*. Although listed in the index, some information is not publicly available, *i.e.*, 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 form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Johnson, Organic Chemicals Group, Emission Standards Division (C504–04), Office of Air Quality Planning and Standards, EPA, Research Triangle Park, NC 27711; telephone number (919) 541–5124; facsimile number (919) 541–3470; electronic mail (e-mail) address *johnson.warren@epa.gov*. For information concerning corrections to the Acrylic/Modacrylic Fiber Production source category of the Generic MACT, contact Ms. Ellen Wildermann, Policy, Planning and Standards Group, Emission Standards Division (C439–04), Office of Air Quality Planning and Standards, EPA, Research Triangle Park, North Carolina 27711, (919) 541–5408, e-mail address *wildermann.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The entities potentially affected by this action include the following categories of sources:

Category	NAICS code	SIC code	Examples of potentially regulated entities
Industrial	325110	2869	Producers of ethylene from refined petroleum or liquid hydrocarbons.
	3252	2824	Producers of either acrylic fiber or modacrylic fiber synthetics composed of acrylonitrile (AN) units.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Not all facilities listed classified under the NAICS code or SIC code are affected. To determine whether your facility is affected by this action, you should examine the applicability criteria in § 63.1100 of the generic MACT standards (40 CFR part 63). If you have any questions regarding the applicability of these technical corrections to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, electronic copies of recently proposed and final rules are also available on the WWW through EPA's Technology Transfer Network (TTN). Following signature, a copy of the direct final rules will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *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.

Comments. We are publishing the direct final rule amendments without prior proposal because we view the amendments as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rules section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to the amendments in the rules if adverse comments are filed. If we receive any adverse comments on one or more distinct amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which amendments will become effective and which amendments are being withdrawn due to adverse comments. We will address all public comments in subsequent final rules based on the proposed rules. Any of the distinct amendments in today's final rules for which we do not receive adverse comment will become effective on the previously mentioned date. We will not institute a second comment period on

this action. Any parties interested in commenting must do so at this time.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of these direct final rules is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 13, 2005. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule amendments may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading the direct final rule amendments:

I. Background

We are amending two rules. One rule is the National Emissions Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Control Technology Standards which were promulgated in June 1999 (64 FR 34863) and also referred to as the Generic Maximum Achievable Control Technology or ''GMACT'' rule, provide a structural framework that allows source categories with similar emission types and control requirements to be covered under common subparts; thus, promoting regulatory consistency in the development of national emission standards for hazardous air pollutants (NESHAP). The other rule is the National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations which were promulgated in July 2002 (67 FR 46258) in the same notice that added by amendment the Ethylene Production source category to the GMACT rule applicability.

The amendments in today's action clarify the compliance requirements for benzene waste streams, clarify the requirements for heat exchangers and heat exchanger systems, and stipulate the provisions for offsite waste transfer in the national emission standards for ethylene manufacturing process units (40 CFR part 63, subpart XX).

The amendments in today's action will also correct the regulatory language that make emissions from ethylene cracking furnaces during decoking operations an exception to the provisions, delineate overlapping requirements for storage vessels and transfer racks, and correct typographical errors in Table 7 to 40 CFR 63.1103(e), ''What are my requirements if I own or operate an ethylene production existing or new affected source?''

In addition, we are correcting errors to Table 3 to 40 CFR 63.1103(b)(3)(ii), ''What are my requirements if I own or operate an acrylic and modacrylic fiber production existing or new affected source and am complying with paragraph (b)(3)(ii) of this section?'' in the proposed rule for the Acrylic and Modacrylic Fiber Production source category which were not corrected as indicated in the preamble to the June 1999 final rule (64 FR 34863).

II. Amendments to the NESHAP for Ethylene Manufacturing Process Units and the Generic MACT

Today's actions include amendments to the NESHAP for ethylene manufacturing process units to clarify compliance requirements for benzene waste streams, to clarify the requirements for heat exchangers and heat exchanger systems, and to stipulate the provisions for offsite waste transfer. We are also amending the generic MACT standards to correct the regulatory language to state that emissions from furnaces during decoking operations are an exception to the provisions, and we are delineating overlapping requirements for storage vessels and transfer racks. Another source in the generic MACT is acrylic and modacrylic fiber production for which we are amending the Compliance Requirements Table.

We are amending 40 CFR 63.1086(b)(4) and 63.1095(a) to change units from parts per million by volume (ppmv) to parts per million by weight (ppmw) so that the units of measure accurately reflect the units of measure of the tests used by affected sources.

We are amending 40 CFR 63.1086(a)(5) to clarify the interpretation of the heat exchanger leak calculation requirements. While not explicitly stated, our intent in § 63.1086(a) was to define heat exchange systems in such a way as to ensure that leaks of 3.06 kilogram per hour (kg/hr) (the intended low end threshold of what would constitute a leak) or greater of hazardous air pollutants (HAP) into the cooling water stream are detectable and to specify that a leak is detected if the exit mean concentration is at least 10 percent greater than the entrance mean.

We are amending 40 CFR 63.1086(a)(2)(ii)(B) and (b)(1)(ii) to include performance-based monitoring frequencies.

We are amending 40 CFR 63.1095(b) to reword the type of waste stream to ''waste streams that contain benzene,'' which is consistent with the wording in 40 CFR 61.342(c). The change clarifies that this section specifically applies to ''waste streams'' containing benzene, not benzene containing streams in general, since there are product streams that also contain benzene. We are also amending 40 CFR 63.1095(b) to clarify an option for an owner or operator to transfer waste off-site to another facility for treatment, according to 40 CFR 63.1096.

We are amending 40 CFR 63.1100(g)(1) to address overlapping storage vessel requirements in 40 CFR part 63, subpart YY, with the requirements in 40 CFR part 63, subparts G and CC.

We are amending 40 CFR 63.1103(e)(1)(ii)(J) by removing the term ''furnace stack,'' because decoking emissions do not exit through the furnace stack. We are amending 40 CFR 63.1103(e)(2) to include a definition of ''organic HAP'' that identifies organic HAP as those compounds listed in Table 1 to 40 CFR part 63, subpart XX.

We are amending 40 CFR 63.1103(g)(3) to clarify our intent that transfer racks at an ethylene affected source that are also subject to either 40 CFR part 63, subpart G, or 40 CFR part 61, subpart BB, are only required to comply with the requirements of 40 CFR part 63, subpart YY.

III. Rule Language Clarifications

Paragraphs (b) and (e) of 40 CFR 63.1084 contain provisions that exempt heat exchange systems that contain less than 5 percent HAP by weight in either an intervening fluid or process fluid. We have been asked to clarify the frequency intended for determining the HAP content for the purpose of establishing or maintaining the exempt status of a heat exchange system. The HAP content must be determined prior to claiming the exemption. Thereafter, the HAP

content must be determined whenever you are relying on the exemption and have reason to believe that the HAP content may be in excess of 5 percent. In general, if you make a process or operating change that would nullify the exemption and would, therefore, need to be identified as part of the affected source subject to 40 CFR part 63, subpart XX, you would make a determination shortly after the change is made and report the determination in the next semiannual report. Likewise, any determinations necessary to document continued exempt status following any process or operational changes that could affect the HAP content of the process fluid or intervening fluid should follow the same schedule. Along these same lines, if you do not make a process or operating change that could increase the HAP content of the process or intervening fluid, and you reasonably believe that the initial demonstration of exempt status is valid, you do not need to perform another determination. The periodic reporting requirements and schedule are specified in 40 CFR 63.1110(e) and (f).

In response to stakeholder questions, we are clarifying that at facilities with total annual benzene (TAB) quantities less than the 10 megagrams per year (Mg/yr) (the applicability threshold of the Benzene Waste Operations NESHAP in 40 CFR part 61, subpart FF), the provisions of 40 CFR part 63, subpart XX, require control of two benzene waste streams as specified in § 63.1095(b)(1), and require control of continuous butadiene waste streams meeting the concentration and flow rate criteria at any benzene level (under 40 CFR 63.1095(a)(3)). Section 63.1095(b)(1) requires facilities whose TAB quantity from waste is less than 10 Mg/yr to manage and treat the two named benzene waste streams—spent caustic waste streams and dilution steam blowdown waste streams—according to 40 CFR 61.342(c)(1) through (c)(3)(i). Facilities with a TAB quantity from waste of 10 Mg/yr or greater must comply with the requirements of 40 CFR 63.1095(b)(2). These requirements are explained in the July 12, 2002, preamble to the final rule (67 FR 46265). Section 112 of the CAA requires standards for control of HAP, not only benzene; hence, all facilities subject to the Ethylene Production NESHAP (regardless of TAB quantity) are required to control continuous butadiene waste streams, as required in 40 CFR 63.1095(a).

We are clarifying the intent of provisions regarding overlapping provisions for leak detection and repair requirements for ethylene manufacturing process units (EMPU) as established by 40 CFR part 63, subpart UU. Equipment within an EMPU may potentially be regulated by several other equipment leak regulations, such as 40 CFR part 61, subparts J and V; 40 CFR part 60, subpart VV; and 40 CFR part 63, subpart H. To address this overlap, the regulations provide that in cases where 40 CFR part 63, subpart UU, overlaps the other requirements, the equipment need only comply with the subpart UU requirements, since subpart UU is at least as stringent as the overlapping regulations. For ease in compliance, we understand that some affected sources may wish to comply with subpart UU requirements for equipment leaks for the entire EMPU, even for equipment not in HAP service. In these cases, the owner or operator should specify the use of 40 CFR part 63, subpart UU, for the entire EMPU in the Notification of Compliance Status report required by 40 CFR 63.1110(a)(4).

We are clarifying the intent of the exclusions contained in 40 CFR 63.1100(e)(1)(iii) and how they relate to the overlap requirements. For process units that are currently regulated under other subparts of 40 CFR part 63, § 63.1100(g) provides provisions when applicability of 40 CFR part 63, subpart YY, and other subparts of 40 CFR parts 60, 61 and 63 overlap, allowing sources to elect which subpart to comply with in some cases. In respect to facilities that produce ethylene, these exclusions and overlap provisions were intended for facilities that have collocated process units currently subject to other 40 CFR part 63 subparts in addition to their ethylene production units. For example, a facility could have a refinery subject to 40 CFR part 63, subpart CC (Petroleum Refinery NESHAP), in addition to an ethylene production unit, and within the refinery operations there is equipment that separates propylene from the refinery gas stream, but the product propylene is not intended for, or used in, ethylene production. The equipment in question, while performing a function that is common to ethylene manufacturing, is already regulated under the Petroleum Refinery NESHAP (40 CFR part 63, subpart CC) and may be excluded from the Ethylene Production NESHAP (40 CFR part 63, subpart YY) applicability on that basis. Our overall intent is to avoid duplication and confusion in monitoring, recordkeeping and reporting requirements by requiring that process equipment that is potentially subject to more than one 40 CFR part 63 subpart must be in compliance with one subpart, but (pursuant to these exclusion and overlap provisions) need not comply with multiple subparts. These provisions and exclusions do not authorize noncompliance with any of the 40 CFR part 63 requirements for a source that would otherwise be subject to one or more 40 CFR part 63 subparts.

We are clarifying that small containers, portable bins and portable tanks are not included in the definition of ''storage vessel or tank'' found in 40 CFR 63.1101 since the definition applies to ''* * * a stationary unit * * *.'' It was not our intent to regulate the small containers, portable bins and portable tanks, and we believe that by distinguishing that the vessels must be stationary is adequate for determining regulated vessels.

Section 63.1105(h)(1) of 40 CFR part 63 requires ''the pressure test procedures specified in Method 27 of appendix A to 40 CFR part 60'' to test for vapor tightness. Vapor tight, as defined in 40 CFR 63.1105(d)(2), means that the pressure in the tank will not drop more than 750 pascals within 5 minutes after it is pressurized to a minimum of 4,500 pascals. This regulatory wording clearly requires you to test for vapor tightness using the pressure test procedures described in Method 27 and does not require a vacuum test. We confirm that it is our intent to require only pressure testing. The appropriate pressure test is described in 40 CFR part 60, appendix A, section 8.2.2 of Method 27, and the vacuum test described in section 8.2.3 of Method 27 is not required.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''significant'' and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the direct final rule amendments are not a ''significant regulatory action'' under the terms of Executive Order 12866 and, therefore, are not subject to review by OMB.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The direct final rule amendments result in no changes to the information collection requirements of the standards or guidelines and will have no impact on the information collection estimate of project cost and hour burden made at the time these rule were promulgated. Therefore, the information collection requests have not been revised. The OMB has previously approved the information collection requirements contained in 40 CFR part 63, subpart YY under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq, and assigned OMB control number 2060–0420 (EPA ICR 1871.02) for Acrylic and Modacrylic Fiber Production, and OMB control number 2060–0489 for Ethylene Production (EPA ICR 1983.02).

Copies of the Information Collection Request (ICR) document(s) may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the direct final rule amendments. For purposes of assessing the impacts of today's direct final rule amendments on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325 that has up to 500; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's direct final rule amendments on small entities, we have concluded that this action will not have a significant economic impact on a substantial number of small entities. The direct final rule amendments will not impose any requirements on small entities. The direct final rule amendments provide clarifications and corrections to previously issued rules. Before promulgating the rule on acrylic and modacrylic fiber production in 1999 (64 FR 34863), we concluded that each standard applied to five or fewer major sources. In addition, we conducted a limited assessment of the economic effect of the proposed standards on small entities that showed no adverse economic effect for any small entities within any of these source categories. Similarly, before promulgating the rules on ethylene production in 2002 (67 FR 46258), we determined that there were no small entities affected by those rules.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government agency plan under section 203 of the UMRA. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the direct final rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, the direct final rule amendments are not subject to the requirements of section 202 and 205 of the UMRA. In addition, we have determined that the direct final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to small governments or impose obligations on them.

E. Executive Order 13132: Federalism

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

responsibilities among the various levels of government.''

The direct final rule amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The direct final rule amendments will not impose substantial direct compliance costs on State or local governments and will not preempt State law. Thus, Executive Order 13132 does not apply to the direct final rule amendments.

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

Executive Order 13175 (65 FR 67249, November 9, 2000) requires us to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

The direct final rule amendments do not have tribal implications, as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to the direct final rule amendments.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives we considered.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The direct final rule amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health and safety risks. Also, the direct final rule amendments are not ''economically significant.''

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

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

I. National Technology Transfer Advancement Act (NTTAA)

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d)(15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, material specifications, test methods, sampling procedures, and business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The direct final rule amendments do not involve modifications to the technical standards specified in the final rules for Acrylic and Modacrylic Fiber Production and Ethylene Production. Therefore, we did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

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 Congress and to the Comptroller General of the United States. We will submit a report containing the direct final 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 direct final rule amendments in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. These direct final rule amendments are 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 7, 2005.

Stephen L. Johnson,

Acting Administrator.

■ For 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 XX—[Amended]

■ 2. Section 63.1086 is amended by:
■ a. Revising paragraph (a)(2)(ii);
■ b. Revising paragraph (a)(5);
■ c. Revising paragraph (b)(1)(ii); and
■ d. Revising paragraph (b)(4).

The revisions read as follows:

§ 63.1086 How must I monitor for leaks to cooling water?

* * * * *

(a) * * *

(2) * * *

(ii) Monitor weekly for 6 months, both initially and following completion of a leak repair. Then monitor as provided in paragraph (a)(2)(ii)(A) or (B) of this section, as appropriate.

(A) If no leaks are detected by monitoring weekly for a 6-month period, monitor monthly thereafter until a leak is detected.

(B) If a leak is detected, monitor weekly until the leak has been repaired. Upon completion of the repair, monitor according to the specifications in paragraph (a)(2)(ii) of this section.

* * * * *

(5) Calculate the average entrance and exit concentrations, correcting for the addition of make-up water and evaporative losses, if applicable. Using a one-sided statistical procedure at the 0.05 level of significance, if the exit mean concentration is at least 10 percent greater than the entrance mean of the HAP (total or speciated) in Table 1 to this subpart or other representative substance, and the leak is at least 3.06 kg/hr, you have detected a leak.

(b) * * *

(1) * * *

(ii) Monitor weekly for 6 months, both initially and following completion of a leak repair. Then monitor as provided in paragraph (b)(1)(ii)(A) or (B) of this section, as appropriate.

(A) If no leaks are detected by monitoring weekly for a 6-month period, monitor monthly thereafter until a leak is detected.

(B) If a leak is detected, monitor weekly until the leak has been repaired. Upon completion of the repair, monitor according to the specifications in paragraph (b)(1)(ii) of this section.

* * * * *

(4) Calculate the average entrance and exit concentrations, correcting for the addition of make-up water and evaporative losses, if applicable. Using a one-sided statistical procedure at the 0.05 level of significance, if the exit mean concentration is at least 1 ppmw or 10 percent greater than the entrance mean, whichever is greater, you have detected a leak.

* * * * *

■ 3. Section 63.1095 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (b) introductory text; and

■ c. Revising paragraph (b)(2).

The revisions read as follows:

§ 63.1095 What specific requirements must I comply with?

* * * * *

(a) *Continuous butadiene waste streams.* Manage and treat continuous butadiene waste streams that contain greater than or equal to 10 ppmw 1,3-butadiene and have a flow rate greater than or equal to 0.02 liters per minute, according to either paragraph (a)(1) or (2) of this section. If the total annual benzene quantity from waste at your facility is less than 10 Mg/yr, as determined according to 40 CFR 61.342(a), the requirements of paragraph (a)(3) of this section apply also.

* * * * *

(b) *Waste streams that contain benzene.* For waste streams that contain benzene, you must comply with the requirements of 40 CFR part 61, subpart FF, except as specified in Table 2 to this subpart. You must manage and treat waste streams that contain benzene as specified in either paragraph (b)(1) or (2) of this section.

* * * * *

(2) If the total annual benzene quantity from waste at your facility is greater than or equal to 10 Mg/yr, as determined according to 40 CFR 61.342(a), you must manage and treat waste streams according to any of the options in 40 CFR 61.342(c)(1) through (e) or transfer waste off-site. If you elect to transfer waste off-site, then you must comply with the requirements of § 63.1096.

Subpart YY—[Amended]

■ 4. Section 63.1100 is amended by:

■ a. Revising paragraph (g)(1)(i); and

■ b. Revising paragraph (g)(3) to read as follows:

§ 63.1100 Applicability.

* * * * *

(g) * * *

(1) * * *

(i) After the compliance dates specified in § 63.1102, a storage vessel subject to this subpart YY that is also subject to subpart G or CC of this part is required to comply only with the provisions of this subpart YY.

* * * * *

(3) *Overlap of this subpart YY with other regulations for transfer racks.* After the compliance dates specified in § 63.1102, a transfer rack that must be controlled according to the requirements of this subpart YY and either subpart G of this part or subpart BB of 40 CFR part 61 is required to comply only with the transfer rack requirements of this subpart YY.

* * * * *

■ 5. Section 63.1103 is amended by:

■ a. Revising paragraph (e)(1)(ii)(J); and

■ b. Adding the term ''Organic HAP'' in alphabetical order to paragraph (e)(2) to read as follows:

§ 63.1103 Source category-specific applicability, definitions, and requirements.

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(J) Air emissions from all ethylene cracking furnaces, including emissions during decoking operations.

* * * * *

(2) * * *

Organic HAP means the compounds listed in Table 1 to subpart XX of this part.

* * * * *

■ 6. Table 3 to § 63.1103(B)(3)(ii) is amended by revising the title and entries (1)(a) and (2)(a) to read as follows:

TABLE 3 TO SECTION 63.1103(b)(3)(ii)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(ii) OF THIS SECTION?

If you own or operate . . .	Then you must control total organic HAP emissions from the affected source by . . .
(1) * * *	Meeting all of the following requirements: a. Reduce total acrylonitrile emissions from all affected storage vessels, process vents, wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in paragraph (b)(2) of this section, and fiber spinning lines operated in your acrylic and modacrylic fibers production facility to less than or equal to 0.5 kilograms (kg) of acrylonitrile per megagram (Mg) of fiber produced. b. * * *
(2) * * *	Meeting all of the following requirements: a. Reduce total acrylonitrile emissions from all affected storage vessels, process vents, wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in paragraph (b)(2) of this section, and fiber spinning lines operated in your acrylic and modacrylic fibers production facility to less than or equal to 0.25 kilograms (kg) of acrylonitrile per megagram (Mg) of fiber produced. b. * * *
* * * * * * *	

* * * * *

■ 7. Table 7 to § 63.1103(e) is amended by revising the title and entries (b)(1) and (g)(1) to read as follows:

TABLE 7 TO § 63.1103(e).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ETHYLENE PRODUCTION EXISTING OR NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
*	* * * * * *	*
(b) * * *	(1) The maximum true vapor pressure of total organic HAP is ≥3.4 kilopascals but <76.6 kilopascals; and the capacity of the vessel is ≥95 cubic meters.	(i) * * * (ii) * * *
*	* * * * * *	*
(g) * * *	(1) The waste stream contains any of the following HAP: benzene, cumene, ethyl benzene, hexane, naphthalene, styrene, toluene, o-xylene, m-xylene, p-xylene, or 1,3-butadiene.	(i) * * *
*	* * * * * *	*

* * * * *

[FR Doc. 05–7404 Filed 4–12–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7899–3]

RIN 2060–AM51

Protection of Stratospheric Ozone: Substitute Refrigerant Recycling; Amendment to the Definition of Refrigerant

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating this direct final rule to correct the final rule published in the **Federal Register** on March 12, 2004. Specifically, EPA is amending the regulatory text for the definitions of refrigerant and technician. EPA is also amending the prohibition against venting substitute refrigerants to reflect the changes in the definitions. These changes are being finalized to make certain that the regulations promulgated on March 12, 2004 cannot be construed as a restriction on the sales of substitutes that do not consist of an ozone-depleting substance (ODS), such as pure hydrofluorocarbon (HFC) and perfluorocarbon (PFC) substitutes.

DATES: This direct rule is effective on June 13, 2005, without further notice, unless EPA receives adverse comment by May 13, 2005. If EPA receives adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2004–0070 by one of the following methods:

- Federal eRulemaking portal *http://www.regulations.gov.* Follow the on-line instructions for submitting comments;
- Agency Web site: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments;
- Fax comments to (202) 566–1741; or
- Mail/hand delivery: Submit comments to Air and Radiation Docket at EPA West, 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T, Washington, DC 20460, phone: (202) 566–1742.

Instructions: Direct your comments to Docket ID No. OAR–2004–0070. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.epa.gov/edocket*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail 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, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, 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 form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket EPA/DC, EPA West, Room B102, 1301 Constitution Ave., 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Julius Banks; (202) 343–9870; Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205J); 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The Stratospheric Ozone Information Hotline, 800–296–1996, and the Ozone Web page, *http://www.epa.gov/ozone/title6/608/regulations/index.html*, can also be contacted for further information concerning this correction.

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. EPA