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Part II

Environmental Protection Agency

40 CFR Part 63

**National Emission Standards for
Hazardous Air Pollutants: Organic Liquids
Distribution (Non-Gasoline); Final Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2003-0138; FRL-8202-4]

RIN 2060-AM77

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments; notice of final action on reconsideration.

SUMMARY: EPA is promulgating amendments to the national emission standards for hazardous air pollutants for organic liquids distribution (non-gasoline) (OLD NESHAP), which EPA promulgated on February 3, 2004. After promulgation of the final OLD NESHAP, the Administrator received petitions for administrative reconsideration of the promulgated rule, and several petitions for judicial review of the final rule were filed in the United States Court of Appeals for the District of Columbia Circuit. On November 14, 2005, pursuant to a settlement agreement between some of the parties to the litigation, EPA published a notice of proposed amendments to address some of the concerns raised in the petitions

and requested comments on the proposed amendments. In this action, EPA is promulgating those amendments, adding additional vapor balancing options, and making technical corrections to the final rule.

DATES: The final rule amendments are effective on July 28, 2006. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the Federal Register as of July 28, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2003-0138. All documents in the docket are listed either on the www.regulations.gov Web site or in the legacy docket, A-98-13. Although listed in the index, some information is not publicly available, e.g., confidential business information 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 through www.regulations.gov or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B-102, 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 and Radiation Docket is (202) 566-1742.

At this time, the EPA/DC's Public Reading Room is closed until further notice due to flooding. Fax numbers for Docket offices in the EPA/DC are temporarily unavailable. EPA visitors are required to show photographic identification and sign the EPA visitor log. After processing through the X-ray and magnetometer machines, visitors will be given an EPA/DC badge that must be visible at all times.

Informational updates will be provided via the EPA Web site at <http://www.epa.gov/epahome/dockets.htm> as they are available.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda Shine, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), Research Triangle Park, NC 27711; telephone number: (919) 541-3608; fax number: (919) 541-0246; e-mail address: shine.brenda@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS* code	Examples of regulated entities
Industry	325211 325192 325188 32411 49311 49319 48611 42269 42271	Operations at major sources that transfer organic liquids into or out of the plant site, including: Liquid storage terminals, crude oil pipeline stations, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with collocated OLD operations.
Federal Government	Federal agency facilities that operate any of the types of entities listed under the "industry" category in this table.

* North American Industry Classification System/Considered to be the primary industrial codes for the plant sites with OLD operations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR part 63, subpart EEEE. If you have any questions regarding the applicability of this action to a particular entity, consult the individual described in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is also

available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be posted on the TTN policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final rule amendments to the OLD NESHAP is available by filing a petition for review in the United States Court of Appeals

for the District of Columbia Circuit by September 26, 2006. Only those objections that were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of the final rule amendments may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides that "[o]nly an objection to a rule or procedure which was raised with reasonable specificity

during the period for public comment (including any public hearing) may be raised during judicial review." This section also provides a mechanism for us to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

Organization of this document: The information presented in this preamble is organized as follows:

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 - A. Executive Order 12866: Regulatory Planning and Review
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 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Congressional Review Act

I. What Is the Statutory Authority for the Final Rule?

Section 112 of the CAA requires EPA to list categories and subcategories of

major sources and area sources of hazardous air pollutants (HAP) and to establish NESHAP for the listed source categories and subcategories. OLD was listed on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit at least 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP.

II. Background

On February 3, 2004 (69 FR 5063), EPA promulgated the OLD NESHAP (40 CFR part 63, subpart EEEE) pursuant to section 112 of the CAA. In response to several petitions for administrative reconsideration of the OLD NESHAP and several petitions for judicial review filed with the United States Court of Appeals for the District of Columbia Circuit and pursuant to a settlement agreement between some of the parties to the litigation, EPA proposed amendments (November 14, 2005, 70 FR 69210) to subpart EEEE. EPA received comments from four entities. The final notice presents EPA's responses to those comments and promulgates amendments to subpart EEEE in response to the petitions and public comments.

As noted in the November 14, 2005, **Federal Register** notice, EPA will be taking separate action to address an administrative petition for reconsideration and a petition for judicial review concerning wastewater sources that were not addressed in the settlement agreement that gave rise to the November 14, 2005, proposal.

III. What Revisions Were Made as a Result of Comments Received on the Proposed Amendments?

Based on consideration of the comments received on the proposed amendments, EPA is revising the OLD rule provisions addressing vapor balancing for transfer racks by providing an additional, equivalent control option that allows routing of displaced HAP vapors to a storage tank with a common header. In addition, EPA is adding an option to allow vapor balancing back to the transport vehicle for storage tanks when they are being filled with organic liquids. EPA is withdrawing the proposed amendment that would have allowed vapor balancing transfer rack emissions to a process unit because this option is already available through other language. EPA is making additional changes, which are either technical corrections or clarifications.

IV. What Are the Responses to Significant Comments?

EPA received four public comment letters on the proposed amendments.

Most of the comments from three of the commenters were supportive of the proposed amendments, and EPA thanks the commenters for that support. The following summarizes the comments that sought changes to the proposed amendments and EPA's response to those comments.

A. Compliance Date Extension for All Storage Tanks

Comment: One commenter noted that 40 CFR 63.2342(b)(2) allows owners and operators of storage tanks with floating roofs up to 10 years or after the next degassing and cleaning activities to comply with the regulations for such storage tanks. The commenter requested that this compliance provision be extended to all storage tanks, because, in their opinion, the emissions produced by emptying and degassing a tank in order to perform the required alterations would exceed the cumulative reduction in emissions occurring in the years following alteration of the tank.

Response: EPA notes that this comment does not pertain to the proposed amendments to subpart EEEE in the November 14, 2005, **Federal Register** notice. Nevertheless, EPA is responding to this request because it is important to clarify this issue. This provision (40 CFR 63.2342(b)(2)) is only applicable to storage tanks with floating roofs and is not applicable to other types of storage tanks (i.e., fixed roof storage tanks). The compliance date provisions for floating roof tanks are consistent with similar rules such as the Hazardous Organic NESHAP (HON). The rationale for allowing extended compliance time for floating roof tanks (up to 10 years) that must upgrade fittings to comply with this rule was that the incremental reductions associated with upgrading controls generally would not exceed the emissions generated as a result of emptying and degassing. However, this is not the case for fixed roof tanks that are essentially uncontrolled. Further, the commenter did not provide substantive information regarding emission potentials and offsetting cleaning and degassing emission potentials for fixed roof tanks. Thus, the technical basis for the compliance date provision is only applicable to storage tanks with floating roofs and not to storage tanks with fixed roofs. Therefore, EPA is not changing this provision as requested by the commenter.

B. Vapor Balancing

Comment: Two commenters requested that 40 CFR 63.2346(b)(3)(i) and (ii) be revised to allow organic HAP vapors

displaced during loading to be vented to another storage tank connected by common header in addition to the tank from which the organic HAP vapor originated or to a process unit, as currently allowed. The commenters stated that this would afford the same flexibility afforded in the HON and the Miscellaneous Organic NESHAP.

Response: EPA agrees that the alternative proposed by the commenters is both appropriate and applicable to the OLD source category. The option provides owners and operators flexibility in meeting the requirements of 40 CFR part 63, subpart EEEE, without sacrificing the level of emission reductions being achieved. Further, making this change would provide consistency between similar emission sources being controlled under similar rules. Therefore, EPA has revised the rule to incorporate this option for vapor balancing for transfer racks.

In addition, other rules (e.g., see 40 CFR 63.119(g) of the HON) allow an owner or operator to route emissions from the filing of storage tanks back to the transport vehicle from which the organic liquid originates. EPA has determined that, like vapor balancing through a common header, the inclusion of this vapor balancing option for storage tanks when they are being filled provides both consistency between the OLD rule and other similar subparts and flexibility to owners and operators without sacrificing emission reduction. Further, because some of the transport vehicles to which vapors are returned are refilled offsite, EPA has included requirements for such offsite facilities. Therefore, EPA has added this provision, along with the necessary requirements for initial and continuous compliance and for keeping records.

Finally, EPA is withdrawing the proposed amendment that would have allowed vapor balancing transfer rack emissions back to a process unit. In the final rule, transfer racks may be routed back to a process (see 40 CFR 63.2346(b)(2)). As part of the proposed amendments (see 40 CFR 63.2346(b)(3)(i) and 40 CFR 63.2346(b)(3)(ii)), vapor balancing these emissions back to a process unit was proposed. Upon further consideration, both options essentially describe one single practice, and therefore, EPA recognizes that it is not necessary for the final rule to contain both options; that 40 CFR 63.2346(b)(2) of the final rule is sufficient. Therefore, EPA is withdrawing the proposed vapor balancing of transfer racks back to a process unit. No changes have been made concerning the use of vapor balancing transfer rack emissions back

to the storage tank from which the liquid originated.

We also would like to address the provisions of 40 CFR 63.2378(d), which allow emissions bypasses of fuel gas systems or the process for up to 240 hours per year. These provisions allow bypassing that is necessary for valid safety or operational reasons but are only applicable if emissions are routinely physically vented to fuel gas systems or the process. This means that the owner or operator can not use the language of 40 CFR 63.2378(d) to exempt a transfer rack that is used for less than 240 hours per year from control requirements.

C. Recordkeeping and Reporting for Emissions Sources That Do Not Require Control

Comment: One commenter requested that the recordkeeping requirements proposed in 40 CFR 63.2343(a) for tanks under 5,000 gallons capacity and for transfer racks that only unload organic liquids be eliminated in their entirety. The commenter stated that such recordkeeping and reporting requirements for these sources impose unnecessary administrative requirements on facilities. The commenter fails to see the benefit in keeping records for tanks that physically cannot change in size or for unloading racks that only unload certain materials.

Response: Addressing storage tanks first, EPA points out that owners and operators of facilities subject to 40 CFR part 63, subpart EEEE will have to make a determination as to which storage tanks are storing organic liquids subject to subpart EEEE and which are not. If a storage tank is storing an organic liquid subject to subpart EEEE, the tank is subject to subpart EEEE. For storage tanks subject to subpart EEEE, the owner or operator would then identify the capacity of each tank in order to identify those that are less than 5,000 gallons in capacity and which do not require control. Proposed 40 CFR 63.2343(a) only applies to those tanks that are storing an organic liquid subject to subpart EEEE and with capacities of less than 5,000 gallons. This applicability is stated clearly in proposed 40 CFR 63.2343(a) (emphasis added):

(a) For each storage tank *subject to this subpart having a capacity of less than 18.9 cubic meters (5,000 gallons)* and for each transfer rack subject to this subpart that only unloads organic liquids (i.e., no organic liquids are loaded at any of the transfer racks), you must keep documentation that verifies that each storage tank and transfer rack identified in paragraph (a) of this section is not required to be controlled.

Proposed 40 CFR 63.2343(a) requires only that the owner or operator keep a record of the size determination; that is, by virtue of having a capacity of less than 5,000 gallons, the storage tank is not required to be controlled. The proposed paragraph does not apply to: (1) Storage tanks storing a liquid that is not an organic liquid and (2) storage tanks storing an organic liquid that is not subject to 40 CFR part 63, subpart EEEE.

As correctly pointed out by the commenter, storage tanks do not change in size. Therefore, there would be no further effort required on the part of the owner or operator to document that the storage tank is not subject to control; that is, the original determination is sufficient.

Proposed 40 CFR 63.2343(a) also required that the documentation be kept up-to-date:

The documentation must be kept up-to-date (i.e., all such emission sources at a facility are identified in the documentation regardless of when the documentation was last compiled) and must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form in a separate location.

EPA points out that in explaining what is meant by "up-to-date," the phrase "all such emission sources at a facility" is used. Within the context of the entire paragraph, this phrase unambiguously refers back to those storage tanks for which the documentation under 40 CFR 63.2343(a)(1) is being requested; that is, storage tanks subject to 40 CFR part 63, subpart EEEE, which are storage tanks storing organic liquids subject to subpart EEEE. EPA does not believe it necessary to revise the regulatory text to further clarify the phrase "all such emission sources at a facility." This phrase does not apply to either storage tanks storing liquids that are not organic liquids or to storage tanks storing organic liquids that are not subject to subpart EEEE. To better identify the type of documentation that is acceptable, EPA has revised 40 CFR 63.2343(a) to allow the use of piping and instrumentation diagrams (P&ID) to identify tanks (and transfer racks) subject to 40 CFR 63.2343(a).

EPA reemphasizes that proposed 40 CFR 63.2343(a) only applies to storage tanks storing an organic liquid subject to 40 CFR part 63, subpart EEEE. If a facility has storage tanks of less than 5,000 gallon capacity, but those storage tanks do not store organic liquids (as defined in subpart EEEE), then there are no recordkeeping requirements for those tanks under 40 CFR 63.2343(a)(1) or

under any other part of subpart EEEE. Furthermore, there are no recordkeeping requirements under subpart EEEE for storage tanks of any size that either do not store and organic liquid or for storage tanks storing organic liquids that are not subject to subpart EEEE.

EPA further points out that 40 CFR 63.10(b)(3) of subpart A (the General Provisions) does not impose any recordkeeping requirements under the OLD maximum achievable control technology (MACT) for storage tanks that are not storing organic liquids and, therefore, not part of the OLD source category. The determination of applicability of 40 CFR 63.10(b)(3) applies to stationary sources that are part of the source category, but that are not subject to the relevant standard, in this case 40 CFR part 63, subpart EEEE, based on either the source's potential to emit or a specific exclusion in the subpart. In the case of the commenter, their OLD operation is located at a major source of HAP and there are no exclusions in subpart EEEE applicable to it; therefore, their OLD operation is an affected source subject to subpart EEEE. Once this determination is made, there is no applicability of 40 CFR 63.10(b)(3) to the OLD affected source.

For other storage tanks located at their plant site that do not store organic liquids and, therefore, are not part of the OLD affected source, 40 CFR 63.10(b)(3) imposes no recordkeeping requirements, for the purposes of the OLD rule, on those storage tanks or the source to which they belong.

EPA clarified this in the preamble to the March 23, 2001, proposed amendments to the General Provisions at 66 FR 16330. We state

The current General Provisions include a requirement at 63.10(b)(3) for a source both to determine applicability and to keep a record of their determination if the source determines that it is not an affected source for a relevant standard. [A]n unintended interpretation of the General Provisions could be to require owners and operators of any source, including facilities not in the source category being regulated, to perform applicability determinations each time any NESHAP are promulgated. It was not our intent that the General Provisions require owners and operators to make a determination that they are not subject to every NESHAP that is issued.

For transfer racks, a situation similar to storage tanks exists. Only transfer racks loading or unloading organic liquids that are subject to 40 CFR part 63, subpart EEEE are affected; loading racks that load or unload only non-organic liquids (or organic liquids not subject to subpart EEEE) are not affected. For those racks that only

unload organic liquids subject to subpart EEEE, owners and operators must make the initial determination that the rack only unloads such organic liquids, and then must keep a record of that determination. As long as such racks do not begin to load organic liquids subject to subpart EEEE, no further effort, beyond keeping the record readily available and up-to-date, is required on the part of the owner or operator to document that the transfer rack only unloads organic liquids subject to subpart EEEE.

Finally, EPA believes that maintaining these basic determinations in the form of a record, both for storage tanks with capacities of less than 5,000 gallons and for transfer racks that only unload organic liquids, will facilitate the time and effort an inspector would expend during an inspection of a facility and the time and effort the source would expend recreating these determinations each time they were asked.

For these reasons, EPA has not revised the proposed rule language associated with these storage tanks and transfer racks, except for the allowance of P&ID to identify such storage tanks and transfer racks.

Comment: One commenter requested that the recordkeeping and reporting requirements proposed in 40 CFR 63.2343 for storage tanks with capacities equal to or greater than 5,000 gallons that do not require control be eliminated. The commenter stated that such requirements impose an administrative burden with no environmental benefit. The commenter suggested that the more appropriate way to address these tanks is to require the owner or operator of such tanks to notify the State permitting authority at the point in time when such tanks trigger control requirements under Table 2 of 40 CFR part 63, subpart EEEE. The commenter recommended that EPA apply the same approach used in the Engine Testing MACT (40 CFR 63.9290). In the Engine Testing MACT, a source that is exclusively used for testing internal combustion engines of less than 25 horsepower is required only to submit an initial notification, meeting the requirements in the General Provisions. The initial notification for these sources also must state that the source has no additional requirements, including a brief explanation of the basis of the exclusion. No other reporting, recordkeeping, or notification requirements, including submission of startup, shutdown, and malfunction plans and compliance demonstrations, apply to sources that do not have to comply with emission limitations.

According to the commenter, EPA should apply this same approach to sources that are not subject to controls under subpart EEEE.

Response: As noted in the previous response, the requirements in proposed 40 CFR 63.2343(b) only apply to storage tanks storing organic liquids subject to 40 CFR part 63, subpart EEEE. Further, an owner or operator would have to make an initial determination as to whether these larger storage tanks contain organic liquids with vapor pressures that trigger the control requirements. As long as the liquid in the tank did not change, no further action is required on the part of the owner or operator, beyond keeping the record readily available and up-to-date. If the owner or operator changes the liquids stored in such tanks, however, the owner or operator is required to make a determination as to whether or not the vapor pressure of the new liquid being stored is sufficient to require control and maintain a record of that determination, even if control is still not required.

EPA continues to believe that keeping a record of such information is important to allow an inspector to determine compliance with the OLD rule. Therefore, EPA has not revised this requirement in the final rule.

D. Technical Corrections and Clarifying Changes

EPA is making the following technical corrections and clarifications to the final rule:

1. The cross-reference to 40 CFR 63.2382(b) found in 40 CFR 63.2370(c) is incorrect. The correct cross-reference is 40 CFR 63.2382(d).
2. Item 1.b in Table 5 to 40 CFR part 63, subpart EEEE references the emission limit of "at least 95 weight percent." This limit is applicable to storage tanks only. The applicable limit for transfer racks (both low throughput and high throughput racks) is "at least 98 weight percent." EPA has revised the final rule to reflect accordingly.
3. In table 12 to 40 CFR part 63, subpart EEEE, 40 CFR 63.6(h)(1) through (7) are indicated as being not applicable to subpart EEEE, while 40 CFR 63.6(h)(8) and CFR 63.6(h)(9) are indicated as being applicable. 40 CFR 63.6(h) applies to opacity and visible emission standards. Upon closer examination of this apparent inconsistency, EPA has determined that all of 40 CFR 63.6(h) is not applicable, except to the extent that Method 22 observations are required as part of a flare compliance assessment. Therefore, EPA has revised the applicability of 40 CFR 63.6(h) to read as follows:

“No; except only as it applies to flares for which Method 22 observations are required as part of a flare compliance assessment.”

4. We are deleting methyl ethyl ketone (MEK) from Table 1 because MEK has been delisted by the Agency as a HAP.

5. We are correcting the cross-reference in 40 CFR 63.2346(a) for storage tanks meeting the tank capacity and liquid vapor pressure criteria for control in Table 2, item 6. The final rule referenced compliance with paragraph (a)(1) when it should have referenced compliance with either paragraphs (a)(1) or (a)(2).

6. We are revising the phrasing in 40 CFR 63.2354(a)(3) to clarify that performance evaluations for continuous monitoring systems (CMS) are only currently required for continuous emission monitoring systems. The requirements of 40 CFR 63.8 only apply if there are promulgated performance specifications for CMS, including continuous parameter monitoring systems. Currently, there are no performance specifications for the continuous parameter monitoring systems that are identified in 40 CFR part 63, subpart SS, which this subpart references. However, performance specifications for parameter monitoring systems are expected to be proposed in the future. When developing these performance specifications, the Agency will consider their application to OLD and other similar rules. For consistency, we have also clarified the applicability of CMS provisions contained in the General Provisions, 40 CFR 63.8(c)(6)–(8), (d), and (f).

7. We have added a new paragraph, 40 CFR 63.2396(e)(2), to clarify the relationship between the recordkeeping and reporting requirements of this subpart and the recordkeeping and reporting requirements for equipment leak components associated with unloading racks under other subparts. The new paragraph clarifies that such equipment leak components must be in compliance with this subpart EEEE. However, if the recordkeeping and reporting requirements of the other 40 CFR part 63 subpart are equivalent to those required by this subpart EEEE, the owner or operator may elect to continue to comply with the recordkeeping and reporting requirements under which they are currently being controlled and be considered in compliance with this subpart EEEE. This new paragraph parallels the similar relationship in the final rule provided for monitoring, recordkeeping, and reporting for control devices.

8. We have revised the definition of “annual average true vapor pressure” to clarify that the vapor pressure is to be based on organic HAP that are listed in Table 1 to this subpart EEEE.

9. We have corrected an incorrect cross-reference in the second column of Item 8 in Table 3 of this subpart EEEE. The incorrect cross-reference, 40 CFR 63.2366(c), does not exist. The correct cross-reference is 40 CFR 63.2366(b).

10. We corrected the last column of item 1.b in Table 5 and the third column of items 1 and 2 of Table 6 of this subpart EEEE by adding the phrase “for nonflare combustion devices” to the option of 20 parts per million by volume exhaust concentration. This phrase was inadvertently omitted and makes these items consistent with item 1.a.i.(5)(A)(ii) in Table 5 of this subpart EEEE.

11. We are making the description in item 2 in Table 11 of this subpart EEEE consistent with the General Provisions’ language that requires an immediate notification when an exceedance of an applicable emission standard occurs during a startup, shutdown, or malfunction episode. The language in the rule as promulgated did not reference the exceedance of an applicable emission standard for determining when an immediate notification was required.

12. We are correcting in Table 12 of this subpart EEEE how 40 CFR 63.9(j) applies to this subpart EEEE. The types of changes that 40 CFR 63.9(j) requires to be reported are covered in subpart EEEE in 40 CFR 63.2386(c) and (d). In these paragraphs, these changes would be submitted with the next compliance report. Thus, the requirement to submit these changes within 15 days after the change is not applicable to this subpart EEEE. The change in Table 12 reflects this.

13. We are revising § 63.2350(c) to be consistent with 40 CFR 63.6(e)(3), which requires the development of a startup, shutdown, and malfunction plan. The revised language, therefore, drops the phrase “and implement.” An owner or operator is still required, under 40 CFR 63.6(e)(1), to minimize emissions during a period of startup, shutdown, or malfunction; thus there is no change in the stringency of the final rule.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is “significant” and, therefore, subject to

Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines “significant regulatory action” as one that is likely to result in a rule that may:

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

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

(3) Materially alter the budgetary impact of entitlement, 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.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a “significant regulatory action” within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The final rule required owners and operators to list sources not subject to control in the first and subsequent compliance reports and to keep appropriate documentation. The final rule applied these requirements across-the-board for all emission sources not requiring control and, in general, was not specific as to what recordkeeping is required. Under the final rule amendments, we clarify how these provisions would apply to those emission sources for which control would never be required and to those emission sources for which control could be required, but is not currently required. In addition, we identify the specific circumstances under which listing in subsequent compliance reports would be required for sources for which control is not required rather than requiring all previously identified sources to be re-listed. Further, we narrow the applicability of certain sections of the General Provisions for sources for which control is not required because the proposed amendments make such application of those sections in the General Provisions unnecessary. Thus, in sum, the final rule amendments are

not adding new information collection burden. However, OMB has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 63, subpart EEEE under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0539, EPA Information Collection Request (ICR) number 1963.02. A copy of the OMB approved ICR may be obtained from Susan Auby, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or 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 final rule amendments.

For purposes of assessing the impacts of the final rule amendments on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (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 the final rule amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining

whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

The final rule amendments will not impose any new requirements on small entities, and will reduce some of the burden established under the promulgated rule. The final rule amendments will relieve regulatory burden by, for example, exempting all emission sources in the affected source not requiring control under the OLD NESHAP from notification, recordkeeping, and reporting requirements, except as otherwise specified for all affected small entities; excluding from the affected source storage tanks, transfer racks, transport vehicles, containers, and equipment leak components when used in special operations and to conduct maintenance activities; and allowing owners or operators of existing sources to request a compliance extension of up to 1 year if the additional time is necessary for the installation of controls. We have therefore concluded that today's final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome

alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the 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 final rule amendments are not subject to the requirements of section 202 and 205 of the UMRA. In addition, the final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the final rule amendments are not subject to the requirements of section 203 of the UMRA.

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 final rule amendments do not have federalism implications. They will not have new 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. They correct typographical errors, clarify provisions, or eliminate unnecessary recordkeeping and reporting requirements for emission sources for which there are no control requirements. These changes do not modify existing or create new responsibilities among EPA Regional Offices, States, or local enforcement agencies. Thus, Executive Order 13132 does not apply to the final rule amendments.

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

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

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

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

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 final rule amendments are not subject to Executive Order 13045 because it is based on technology

performance and not on health or safety risks.

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

The final rule amendments are not a “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. The final rule amendments involve a technical standard. EPA has decided to use ASTM D6420–99 (reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, as an alternative to Method 18. This method allows the use of ASTM D6420–99 (Reapproved 2004) as an alternative to Method 18 to determine compliance with the organic HAP or total organic compounds emission limit under certain circumstances.

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 the Congress and to the Comptroller General of the United States. EPA will submit a report containing the final rule amendments and other required information to the United States Senate,

the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). The final rule will be effective on July 28, 2006.

List of Subjects in 40 CFR Part 63

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

Dated: July 18, 2006.

Stephen L. Johnson,
Administrator.

■ For the reasons set out 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.*

■ 2. Section 63.14 is amended by revising paragraph (b)(28) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

(28) ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for §§ 63.2354(b)(3)(i), 63.2354(b)(3)(ii), 63.2354(b)(3)(ii)(A), and 63.2354(b)(3)(ii)(B).

* * * * *

Subpart EEEE—[Amended]

■ 3. Section 63.2338 is amended by:

■ a. Revising paragraphs (b)(3) and (b)(4);

■ b. Adding a new paragraph (b)(5);

■ c. Revising paragraph (c)(1);

■ d. Removing paragraph (c)(2) and redesignating paragraphs (c)(3) and (c)(4) as (c)(2) and (c)(3), respectively; and

■ e. Revising newly designated paragraphs (c)(2) and (c)(3) to read as follows:

§ 63.2338 What parts of my plant does this subpart cover?

* * * * *

(b) * * *

(3) All equipment leak components in organic liquids service that are associated with:

- (i) Storage tanks storing organic liquids;
- (ii) Transfer racks loading or unloading organic liquids;
- (iii) Pipelines that transfer organic liquids directly between two storage tanks that are subject to this subpart;
- (iv) Pipelines that transfer organic liquids directly between a storage tank subject to this subpart and a transfer rack subject to this subpart; and
- (v) Pipelines that transfer organic liquids directly between two transfer racks that are subject to this subpart.

(4) All transport vehicles while they are loading or unloading organic liquids at transfer racks subject to this subpart.

(5) All containers while they are loading or unloading organic liquids at transfer racks subject to this subpart.

(c) * * *

(1) Storage tanks, transfer racks, transport vehicles, containers, and equipment leak components that are part of an affected source under another 40 CFR part 63 national emission standards for hazardous air pollutants (NESHAP).

(2) Non-permanent storage tanks, transfer racks, transport vehicles, containers, and equipment leak components when used in special situation distribution loading and unloading operations (such as maintenance or upset liquids management).

(3) Storage tanks, transfer racks, transport vehicles, containers, and equipment leak components when used to conduct maintenance activities, such as stormwater management, liquid removal from tanks for inspections and maintenance, or changeovers to a different liquid stored in a storage tank.

* * * * *

- 4. Section 63.2342 is amended by:
- a. Revising paragraph (a) introductory text;
- b. Adding paragraph (a)(3);
- c. Revising paragraph (b)(1);
- d. Adding paragraph (b)(3); and
- e. Revising paragraph (d) to read as follows:

§ 63.2342 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to the schedule identified in paragraph (a)(1), (a)(2), or (a)(3) of this section, as applicable.

* * * * *

(3) If, after startup of a new affected source, the total actual annual facility-level organic liquid loading volume at

that source exceeds the criteria for control in Table 2 to this subpart, items 9 and 10, the owner or operator must comply with the transfer rack requirements specified in § 63.2346(b) immediately; that is, be in compliance the first day of the period following the end of the 3-year period triggering the control criteria.

(b)(1) If you have an existing affected source, you must comply with the emission limitations, operating limits, and work practice standards for existing affected sources no later than February 5, 2007, except as provided in paragraphs (b)(2) and (3) of this section.

* * * * *

(3)(i) If an addition or change other than reconstruction as defined in § 63.2 is made to an existing affected facility that causes the total actual annual facility-level organic liquid loading volume to exceed the criteria for control in Table 2 to this subpart, items 7 and 8, the owner or operator must comply with the transfer rack requirements specified in § 63.2346(b) immediately; that is, be in compliance the first day of the period following the end of the 3-year period triggering the control criteria.

(ii) If the owner or operator believes that compliance with the transfer rack emission limits cannot be achieved immediately, as specified in paragraph (b)(3)(i) of this section, the owner or operator may submit a request for a compliance extension, as specified in paragraphs (b)(3)(ii)(A) through (I) of this section. Subject to paragraph (b)(3)(ii)(B) of this section, until an extension of compliance has been granted by the Administrator (or a State with an approved permit program) under this paragraph (b)(3)(ii), the owner or operator of the transfer rack subject to the requirements of this section shall comply with all applicable requirements of this subpart. Advice on requesting an extension of compliance may be obtained from the Administrator (or the State with an approved permit program).

(A) *Submittal.* The owner or operator shall submit a request for a compliance extension to the Administrator (or a State, when the State has an approved 40 CFR part 70 permit program and the source is required to obtain a 40 CFR part 70 permit under that program, or a State, when the State has been delegated the authority to implement and enforce the emission standard for that source) seeking an extension allowing the source up to 1 additional year to comply with the transfer rack standard, if such additional period is necessary for the installation of controls. The owner or

operator of the affected source who has requested an extension of compliance under this paragraph (b)(3)(ii)(A) and who is otherwise required to obtain a title V permit shall apply for such permit, or apply to have the source's title V permit revised to incorporate the conditions of the extension of compliance. The conditions of an extension of compliance granted under this paragraph (b)(3)(ii)(A) will be incorporated into the affected source's title V permit according to the provisions of 40 CFR part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever are applicable.

(B) *When to submit.* (1) Any request submitted under paragraph (b)(3)(ii)(A) of this section must be submitted in writing to the appropriate authority no later than 120 days prior to the affected source's compliance date (as specified in paragraph (b)(3)(i) of this section), except as provided for in paragraph (b)(3)(ii)(B)(2) of this section. Nonfrivolous requests submitted under this paragraph (b)(3)(ii)(B)(1) will stay the applicability of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the date of denial.

(2) An owner or operator may submit a compliance extension request after the date specified in paragraph (b)(3)(ii)(B)(1) of this section provided the need for the compliance extension arose after that date, and before the otherwise applicable compliance date and the need arose due to circumstances beyond reasonable control of the owner or operator. This request must include, in addition to the information required in paragraph (b)(3)(ii)(C) of this section, a statement of the reasons additional time is needed and the date when the owner or operator first learned of the problems. Nonfrivolous requests submitted under this paragraph (b)(3)(ii)(B)(2) will stay the applicability of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the original compliance date.

(C) *Information required.* The request for a compliance extension under paragraph (b)(3)(ii)(A) of this section shall include the following information:

(1) The name and address of the owner or operator and the address of the existing source if it differs from the address of the owner or operator;

(2) The name, address, and telephone number of a contact person for further information;

(3) An identification of the organic liquid distribution operation and of the

specific equipment for which additional compliance time is required;

(4) A description of the controls to be installed to comply with the standard;

(5) Justification for the length of time being requested; and

(6) A compliance schedule, including the date by which each step toward compliance will be reached. At a minimum, the list of dates shall include:

(i) The date by which on-site construction, installation of emission control equipment, or a process change is planned to be initiated;

(ii) The date by which on-site construction, installation of emission control equipment, or a process change is to be completed; and

(iii) The date by which final compliance is to be achieved.

(D) *Approval of request for extension of compliance.* Based on the information provided in any request made under paragraph (b)(3)(ii)(C) of this section, or other information, the Administrator (or the State with an approved permit program) may grant an extension of compliance with the transfer rack emission standard, as specified in paragraph (b)(3)(ii) of this section. The extension will be in writing and will—

(1) Identify each affected source covered by the extension;

(2) Specify the termination date of the extension;

(3) Specify the dates by which steps toward compliance are to be taken, if appropriate;

(4) Specify other applicable requirements to which the compliance extension applies (e.g., performance tests);

(5) Specify the contents of the progress reports to be submitted and the dates by which such reports are to be submitted, if required pursuant to paragraph (b)(3)(ii)(E) of this section.

(6) Under paragraph (b)(3)(ii) of this section, specify any additional conditions that the Administrator (or the State) deems necessary to assure installation of the necessary controls and protection of the health of persons during the extension period.

(E) *Progress reports.* The owner or operator of an existing source that has been granted an extension of compliance under paragraph (b)(3)(ii)(D) of this section may be required to submit to the Administrator (or the State with an approved permit program) progress reports indicating whether the steps toward compliance outlined in the compliance schedule have been reached.

(F) *Notification of approval or intention to deny.*

(1) The Administrator (or the State with an approved permit program) will

notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (b)(3)(ii) of this section. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application; that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. Failure by the Administrator to act within 30 calendar days to approve or disapprove a request submitted under paragraph (b)(3)(ii) of this section does not constitute automatic approval of the request.

(2) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(3) Before denying any request for an extension of compliance, the Administrator (or the State with an approved permit program) will notify the owner or operator in writing of the Administrator's (or the State's) intention to issue the denial, together with:

(i) Notice of the information and findings on which the intended denial is based; and

(ii) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator (or the State) before further action on the request.

(4) The Administrator's final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(G) *Termination of extension of compliance.* The Administrator (or the State with an approved permit program)

may terminate an extension of compliance at an earlier date than specified if any specification under paragraph (b)(3)(ii)(D)(3) or paragraph (b)(3)(ii)(D)(4) of this section is not met. Upon a determination to terminate, the Administrator will notify, in writing, the owner or operator of the Administrator's determination to terminate, together with:

(1) Notice of the reason for termination; and

(2) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the determination to terminate, additional information or arguments to the Administrator before further action on the termination.

(3) A final determination to terminate an extension of compliance will be in writing and will set forth the specific grounds on which the termination is based. The final determination will be made within 30 calendar days after presentation of additional information or arguments, or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(H) The granting of an extension under this section shall not abrogate the Administrator's authority under section 114 of the CAA.

(I) *Limitation on use of compliance extension.* The owner or operator may request an extension of compliance under the provisions specified in paragraph (b)(3)(ii) of this section only once for each facility.

* * * * *

(d) You must meet the notification requirements in §§ 63.2343 and 63.2382(a), as applicable, according to the schedules in § 63.2382(a) and (b)(1) through (3) and in subpart A of this part. Some of these notifications must be submitted before the compliance dates for the emission limitations, operating limits, and work practice standards in this subpart.

■ 5. Section 63.2343 is added to subpart EEEE to read as follows:

§ 63.2343 What are my requirements for emission sources not requiring control?

This section establishes the notification, recordkeeping, and reporting requirements for emission sources identified in § 63.2338 that do not require control under this subpart (i.e., under paragraphs (a) through (e) of § 63.2346). Such emission sources are not subject to any other notification, recordkeeping, or reporting sections in this subpart, including § 63.2350(c), except as indicated in paragraphs (a) through (d) of this section.

(a) For each storage tank subject to this subpart having a capacity of less

than 18.9 cubic meters (5,000 gallons) and for each transfer rack subject to this subpart that only unloads organic liquids (i.e., no organic liquids are loaded at any of the transfer racks), you must keep documentation that verifies that each storage tank and transfer rack identified in paragraph (a) of this section is not required to be controlled. The documentation must be kept up-to-date (i.e., all such emission sources at a facility are identified in the documentation regardless of when the documentation was last compiled) and must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form in a separate location. The documentation may consist of identification of the tanks and transfer racks identified in paragraph (a) of this section on a plant site plan or process and instrumentation diagram (P&ID).

(b) For each storage tank subject to this subpart having a capacity of 18.9 cubic meters (5,000 gallons) or more that is not subject to control based on the criteria specified in Table 2 to this subpart, items 1 through 6, you must comply with the requirements specified in paragraphs (b)(1) through (3) of this section.

(1)(i) You must submit the information in § 63.2386(c)(1), (2), (3), and (10)(i) in either the Notification of Compliance Status, according to the schedule specified in Table 12 to this subpart, or in your first Compliance report, according to the schedule specified in § 63.2386(b), whichever occurs first.

(ii)(A) If you submit your first Compliance report before your Notification of Compliance Status, the Notification of Compliance Status must contain the information specified in § 63.2386(d)(3) and (4) if any of the changes identified in paragraph (d) of this section have occurred since the filing of the first Compliance report. If none of the changes identified in paragraph (d) of this section have occurred since the filing of the first Compliance report, you do not need to report the information specified in § 63.2386(c)(10)(i) when you submit your Notification of Compliance Status.

(B) If you submit your Notification of Compliance Status before your first Compliance report, your first Compliance report must contain the information specified in § 63.2386(d)(3) and (4) if any of the changes specified in paragraph (d) of this section have occurred since the filing of the Notification of Compliance Status.

(iii) If you are already submitting a Notification of Compliance Status or a

first Compliance report under § 63.2386(c), you do not need to submit a separate Notification of Compliance Status or first Compliance report for each storage tank that meets the conditions identified in paragraph (b) of this section (i.e., a single Notification of Compliance Status or first Compliance report should be submitted).

(2)(i) You must submit a subsequent Compliance report according to the schedule in § 63.2386(b) whenever any of the events in paragraph (d) of this section occur, as applicable.

(ii) Your subsequent Compliance reports must contain the information in § 63.2386(c)(1), (2), (3) and, as applicable, in § 63.2386(d)(3) and (4). If you are already submitting a subsequent Compliance report under § 63.2386(d), you do not need to submit a separate subsequent Compliance report for each storage tank that meets the conditions identified in paragraph (b) of this section (i.e., a single subsequent Compliance report should be submitted).

(3) For each storage tank that meets the conditions identified in paragraph (b) of this section, you must keep documentation, including a record of the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid, that verifies the storage tank is not required to be controlled under this subpart. The documentation must be kept up-to-date and must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form in a separate location.

(c) For each transfer rack subject to this subpart that loads organic liquids but is not subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must comply with the requirements specified in paragraphs (c)(1) through (3) of this section.

(1)(i) You must submit the information in § 63.2386(c)(1), (2), (3), and (10)(i) in either the Notification of Compliance Status, according to the schedule specified in Table 12 to this subpart, or a first Compliance report, according to the schedule specified in § 63.2386(b), whichever occurs first.

(ii)(A) If you submit your first Compliance report before your Notification of Compliance Status, the Notification of Compliance Status must contain the information specified in § 63.2386(d)(3) and (4) if any of the changes identified in paragraph (d) of this section have occurred since the filing of the first Compliance report. If none of the changes identified in paragraph (d) of this section have

occurred since the filing of the first Compliance report, you do not need to report the information specified in § 63.2386(c)(10)(i) when you submit your Notification of Compliance Status.

(B) If you submit your Notification of Compliance Status before your first Compliance report, your first Compliance report must contain the information specified in § 63.2386(d)(3) and (4) if any of the changes specified in paragraph (d) of this section have occurred since the filing of the Notification of Compliance Status.

(iii) If you are already submitting a Notification of Compliance Status or a first Compliance report under § 63.2386(c), you do not need to submit a separate Notification of Compliance Status or first Compliance report for each transfer rack that meets the conditions identified in paragraph (b) of this section (i.e., a single Notification of Compliance Status or first Compliance report should be submitted).

(2)(i) You must submit a subsequent Compliance report according to the schedule in § 63.2386(b) whenever any of the events in paragraph (d) of this section occur, as applicable.

(ii) Your subsequent Compliance reports must contain the information in § 63.2386(c)(1), (2), (3) and, as applicable, in § 63.2386(d)(3) and (4). If you are already submitting a subsequent Compliance report under § 63.2386(d), you do not need to submit a separate subsequent Compliance report for each transfer rack that meets the conditions identified in paragraph (c) of this section (i.e., a single subsequent Compliance report should be submitted).

(3) For each transfer rack that meets the conditions identified in paragraph (c) of this section, you must keep documentation, including the records specified in § 63.2390(d), that verifies the transfer rack is not required to be controlled under this subpart. The documentation must be kept up-to-date and must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form in a separate location.

(d) If one or more of the events identified in paragraphs (d)(1) through (4) of this section occur since the filing of the Notification of Compliance Status or the last Compliance report, you must submit a subsequent Compliance report as specified in paragraphs (b)(3) and (c)(3) of this section.

(1) Any storage tank or transfer rack became subject to control under this subpart EEEE; or

(2) Any storage tank equal to or greater than 18.9 cubic meters (5,000

gallons) became part of the affected source but is not subject to any of the emission limitations, operating limits, or work practice standards of this subpart; or

(3) Any transfer rack (except those racks at which only unloading of organic liquids occurs) became part of the affected source; or

(4) Any of the information required in § 63.2386(c)(1), § 63.2386(c)(2), or § 63.2386(c)(3) has changed.

■ 6. Section 63.2346 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (a)(2);

■ c. Adding a new paragraph (a)(4);

■ d. Revising paragraph (b) introductory text;

■ e. Revising paragraph (b)(2);

■ f. Revising paragraph (b)(3);

■ g. Revising paragraph (d) introductory text;

■ h. Revising paragraph (e); and

■ i. Removing and reserving paragraph (h) to read as follows:

§ 63.2346 What emission limitations, operating limits, and work practice standards must I meet?

(a) *Storage tanks.* For each storage tank storing organic liquids that meets the tank capacity and liquid vapor pressure criteria for control in Table 2 to this subpart, items 1 through 5, you must comply with paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this section. For each storage tank storing organic liquids that meets the tank capacity and liquid vapor pressure criteria for control in Table 2 to this subpart, item 6, you must comply with paragraph (a)(1), (a)(2), or (a)(4) of this section.

* * * * *

(2) Route emissions to fuel gas systems or back into a process as specified in 40 CFR part 63, subpart SS.

* * * * *

(4) Use a vapor balancing system that complies with the requirements specified in paragraphs (a)(4)(i) through (vii) of this section and with the recordkeeping requirements specified in § 63.2390(e).

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

(ii) Transport vehicles must have a current certification in accordance with the United States Department of Transportation (U.S. DOT) pressure test requirements of 49 CFR part 180 for cargo tanks and 49 CFR 173.31 for tank cars.

(iii) Organic liquids must only be unloaded from cargo tanks or tank cars

when vapor collection systems are connected to the storage tank's vapor collection system.

(iv) No pressure relief device on the storage tank, or on the cargo tank or tank car, shall open during loading or as a result of diurnal temperature changes (breathing losses).

(v) Pressure relief devices must be set to no less than 2.5 pounds per square inch guage (psig) at all times to prevent breathing losses. Pressure relief devices may be set at values less than 2.5 psig if the owner or operator provides rationale in the notification of compliance status report explaining why the alternative value is sufficient to prevent breathing losses at all times. The owner or operator shall comply with paragraphs (a)(4)(iv)(A) through (C) of this section for each pressure relief valve.

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

(B) An instrument reading of 500 parts per million by volume (ppmv) or greater defines a leak.

(C) When a leak is detected, it shall be repaired as soon as practicable, but no later than 5 days after it is detected, and the owner or operator shall comply with the recordkeeping requirements of § 63.181(d)(1) through (4).

(vi) Cargo tanks and tank cars that deliver organic liquids to a storage tank must be reloaded or cleaned at a facility that utilizes the control techniques specified in paragraph (a)(4)(vi)(A) or (a)(4)(vi)(B) of this section.

(A) The cargo tank or tank car must be connected to a closed-vent system with a control device that reduces inlet emissions of total organic HAP by 95 percent by weight or greater or to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3 percent oxygen for combustion devices using supplemental combustion air.

(B) A vapor balancing system designed and operated to collect organic HAP vapor displaced from the cargo tank or tank car during reloading must be used to route the collected vapor to the storage tank from which the liquid being transferred originated or to another storage tank connected to a common header.

(vii) The owner or operator of the facility where the cargo tank or tank car is reloaded or cleaned must comply with paragraphs (a)(4)(vii)(A) through (D) of this section.

(A) Submit to the owner or operator of the storage tank and to the Administrator a written certification that the reloading or cleaning facility will meet the requirements of paragraph

(a)(4)(vii)(A) through (C) of this section. The certifying entity may revoke the written certification by sending a written statement to the owner or operator of the storage tank giving at least 90 days notice that the certifying entity is rescinding acceptance of responsibility for compliance with the requirements of this paragraph (a)(4)(vii) of this section.

(B) If complying with paragraph (a)(4)(vi)(A) of this section, comply with the requirements for a closed vent system and control device as specified in this subpart EEEE. The notification requirements in § 63.2382 and the reporting requirements in § 63.2386 do not apply to the owner or operator of the offsite cleaning or reloading facility.

(C) If complying with paragraph (a)(4)(vi)(B) of this section, keep the records specified in § 63.2390(e)(3) or equivalent recordkeeping approved by the Administrator.

(D) After the compliance dates specified in § 63.2342, at an offsite reloading or cleaning facility subject to § 63.2346(a)(4), compliance with the monitoring, recordkeeping, and reporting provisions of any other subpart of this part 63 that has monitoring, recordkeeping, and reporting provisions constitutes compliance with the monitoring, recordkeeping and reporting provisions of § 63.2346(a)(4)(vii)(B) or § 63.2346(a)(4)(vii)(C). You must identify in your notification of compliance status report required by § 63.2382(d) the subpart of this part 63 with which the owner or operator of the offsite reloading or cleaning facility complies.

(b) *Transfer racks.* For each transfer rack that is part of the collection of transfer racks that meets the total actual annual facility-level organic liquid loading volume criterion for control in Table 2 to this subpart, items 7 through 10, you must comply with paragraph (b)(1), (b)(2), or (b)(3) of this section for each arm in the transfer rack loading an organic liquid whose organic HAP content meets the organic HAP criterion for control in Table 2 to this subpart, items 7 through 10. For existing affected sources, you must comply with paragraph (b)(1), (b)(2), or (b)(3)(i) of this section during the loading of organic liquids into transport vehicles. For new affected sources, you must comply with paragraph (b)(1), (b)(2), or (b)(3)(i) and (ii) of this section during the loading of organic liquids into transport vehicles and containers. If the total actual annual facility-level organic liquid loading volume at any affected source is equal to or greater than the loading volume criteria for control in

Table 2 to this subpart, but at a later date is less than the loading volume criteria for control, compliance with paragraph (b)(1), (b)(2), or (b)(3) of this section is no longer required. For new sources and reconstructed sources, as defined in § 63.2338(d) and (e), if at a later date, the total actual annual facility-level organic liquid loading volume again becomes equal to or greater than the loading volume criteria for control in Table 2 to this subpart, the owner or operator must comply with paragraph (b)(1), (b)(2), or (b)(3)(i) and (ii) of this section immediately, as specified in § 63.2342(a)(3). For existing sources, as defined in § 63.2338(f), if at a later date, the total actual annual facility-level organic liquid loading volume again becomes equal to or greater than the loading volume criteria for control in Table 2 to this subpart, the owner or operator must comply with paragraph (b)(1), (b)(2), or (b)(3)(i) of this section immediately, as specified in § 63.2342(b)(3)(i), unless an alternative compliance schedule has been approved under § 63.2342(b)(3)(ii) and subject to the use limitation specified in § 63.2342(b)(3)(ii)(I).

* * * * *

(2) Route emissions to fuel gas systems or back into a process as specified in 40 CFR part 63, subpart SS.

(3)(i) Use a vapor balancing system that routes organic HAP vapors displaced from the loading of organic liquids into transport vehicles to the storage tank from which the liquid being loaded originated or to another storage tank connected to a common header.

(ii) Use a vapor balancing system that routes the organic HAP vapors displaced from the loading of organic liquids into containers directly (e.g., no intervening tank or containment area such as a room) to the storage tank from which the liquid being loaded originated or to another storage tank connected to a common header.

* * * * *

(d) *Transport vehicles.* For each transport vehicle equipped with vapor collection equipment that is loaded at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must comply with paragraph (d)(1) of this section. For each transport vehicle without vapor collection equipment that is loaded at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must comply with paragraph (d)(2) of this section.

* * * * *

(e) *Operating limits.* For each high throughput transfer rack, you must meet each operating limit in Table 3 to this subpart for each control device used to comply with the provisions of this subpart whenever emissions from the loading of organic liquids are routed to the control device. For each storage tank and low throughput transfer rack, you must comply with the requirements for monitored parameters as specified in subpart SS of this part for storage vessels and, during the loading of organic liquids, for low throughput transfer racks, respectively.

Alternatively, you may comply with the operating limits in Table 3 to this subpart.

* * * * *

■ 7. Section 63.2350 is amended by revising paragraph (c) to read as follows:

§ 63.2350 What are my general requirements for complying with this subpart?

* * * * *

(c) Except for emission sources not required to be controlled as specified in § 63.2343, you must develop a written startup, shutdown, and malfunction (SSM) plan according to the provisions in § 63.6(e)(3).

■ 8. Section 63.2354 is amended by revising paragraphs (a)(3) and (b)(3) to read as follows:

§ 63.2354 What performance tests, design evaluations, and performance evaluations must I conduct?

(a)(1) * * *

(3) For each performance evaluation of a continuous emission monitoring system (CEMS) you conduct, you must follow the requirements in § 63.8(e).

(b)(1) * * *

(3)(i) In addition to EPA Method 25 or 25A of 40 CFR part 60, appendix A, to determine compliance with the organic HAP or TOC emission limit, you may use EPA Method 18 of 40 CFR part 60, appendix A, as specified in paragraph (b)(3)(i) of this section. As an alternative to EPA Method 18, you may use ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (incorporated by reference, see § 63.14), under the conditions specified in paragraph (b)(3)(ii) of this section.

(A) If you use EPA Method 18 to measure compliance with the percentage efficiency limit, you must first determine which organic HAP are present in the inlet gas stream (i.e., uncontrolled emissions) using knowledge of the organic liquids or the screening procedure described in EPA

Method 18. In conducting the performance test, you must analyze samples collected as specified in EPA Method 18, simultaneously at the inlet and outlet of the control device.

Quantify the emissions for the same organic HAP identified as present in the inlet gas stream for both the inlet and outlet gas streams of the control device.

(B) If you use EPA Method 18 of 40 CFR part 60, appendix A, to measure compliance with the emission concentration limit, you must first determine which organic HAP are present in the inlet gas stream using knowledge of the organic liquids or the screening procedure described in EPA Method 18. In conducting the performance test, analyze samples collected as specified in EPA Method 18 at the outlet of the control device. Quantify the control device outlet emission concentration for the same organic HAP identified as present in the inlet or uncontrolled gas stream.

(ii) You may use ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (incorporated by reference, see § 63.14), as an alternative to EPA Method 18 if the target concentration is between 150 parts per billion by volume and 100 ppmv and either of the conditions specified in paragraph (b)(2)(ii)(A) or (B) of this section exists. For target compounds not listed in Section 1.1 of ASTM D6420–99 (Reapproved 2004) and not amenable to detection by mass spectrometry, you may not use ASTM D6420–99 (Reapproved 2004).

(A) The target compounds are those listed in Section 1.1 of ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (incorporated by reference, see § 63.14),; or

(B) For target compounds not listed in Section 1.1 of ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (incorporated by reference, see § 63.14), but potentially detected by mass spectrometry, the additional system continuing calibration check after each run, as detailed in ASTM D6420–99 (Reapproved 2004), Section 10.5.3, must be followed, met, documented, and submitted with the data report, even if there is no moisture

condenser used or the compound is not considered water-soluble.

* * * * *

■ 9. Section 63.2362 is amended by revising paragraph (b)(1) to read as follows:

§ 63.2362 When must I conduct subsequent performance tests?

* * * * *

(b)(1) For each transport vehicle that you own that is equipped with vapor collection equipment and that is loaded with organic liquids at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must perform the vapor tightness testing required in Table 5 to this subpart, item 2, on that transport vehicle at least once per year.

* * * * *

■ 10. Section 63.2370 is amended by revising paragraph (c) to read as follows:

§ 63.2370 How do I demonstrate initial compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(c) You must submit the results of the initial compliance determination in the Notification of Compliance Status according to the requirements in § 63.2382(d).

■ 11. Section 63.2382 is amended by revising paragraphs (d)(2)(iv), (v), (vi), (vii), and (viii) to read as follows:

§ 63.2382 What notifications must I submit and when and what information should be submitted?

* * * * *

- (d) * * *
- (2) * * *

(iv) Descriptions of worst-case operating and/or testing conditions for the control device(s).

(v) Identification of emission sources subject to overlapping requirements described in § 63.2396 and the authority under which you will comply.

(vi) The applicable information specified in § 63.1039(a)(1) through (3) for all pumps and valves subject to the work practice standards for equipment leak components in Table 4 to this subpart, item 4.

(vii) If you are complying with the vapor balancing work practice standard for transfer racks according to Table 4 to this subpart, item 3.a, include a statement to that effect and a statement that the pressure vent settings on the affected storage tanks are greater than or equal to 2.5 psig.

(viii) The information specified in § 63.2386(c)(10)(i), unless the information has already been submitted

with the first Compliance report. If the information specified in § 63.2386(c)(10)(i) has already been submitted with the first Compliance report, the information specified in § 63.2386(d)(3) and (4), as applicable, shall be submitted instead.

■ 12. Section 63.2386 is amended by:

- a. Revising paragraph (b)(3);
- b. Revising paragraph (c)(4);
- c. Revising paragraphs (c)(9) and (c)(10);
- d. Revising paragraph (d) introductory text;
- e. Removing paragraph (d)(3); and
- f. Adding new paragraphs (d)(3) and (d)(4) to read as follows:

§ 63.2386 What reports must I submit and when and what information is to be submitted in each?

* * * * *

(b) * * *

(3) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent Compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) and (2) of this section.

(c) * * *

(4) Any changes to the information listed in § 63.2382(d)(2) that have occurred since the submittal of the Notification of Compliance Status.

* * * * *

(9) A listing of all transport vehicles into which organic liquids were loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, during the previous 6 months for which vapor tightness documentation as required in § 63.2390(c) was not on file at the facility.

(10)(i) A listing of all transfer racks (except those racks at which only unloading of organic liquids occurs) and of tanks greater than or equal to 18.9 cubic meters (5,000 gallons) that are part of the affected source but are not subject to any of the emission limitations, operating limits, or work practice standards of this subpart.

(ii) If the information specified in paragraph (c)(10)(i) of this section has already been submitted with the Notification of Compliance Status, the information specified in paragraphs (d)(3) and (4) of this section, as applicable, shall be submitted instead.

(d) *Subsequent Compliance reports.* Subsequent Compliance reports must

contain the information in paragraphs (c)(1) through (9) of this section and, where applicable, the information in paragraphs (d)(1) through (4) of this section.

* * * * *

(3)(i) A listing of any storage tank that became subject to controls based on the criteria for control specified in Table 2 to this subpart, items 1 through 6, since the filing of the last Compliance report.

(ii) A listing of any transfer rack that became subject to controls based on the criteria for control specified in Table 2 to this subpart, items 7 through 10, since the filing of the last Compliance report.

(4)(i) A listing of tanks greater than or equal to 18.9 cubic meters (5,000 gallons) that became part of the affected source but are not subject to any of the emission limitations, operating limits, or work practice standards of this subpart, since the last Compliance report.

(ii) A listing of all transfer racks (except those racks at which only the unloading of organic liquids occurs) that became part of the affected source but are not subject to any of the emission limitations, operating limits, or work practice standards of this subpart, since the last Compliance report.

* * * * *

■ 13. Section 63.2390 is amended by: ■ a. Revising paragraphs (a) and (b); ■ b. Revising paragraph (c) introductory text;

- c. Redesignating paragraph (c)(3) as paragraph (d);
- d. Adding a new paragraph (c)(3);
- e. Revising newly designated paragraph (d); and
- f. Adding a new paragraph (e) to read as follows:

§ 63.2390 What records must I keep?

(a) For each emission source identified in § 63.2338 that does not require control under this subpart, you must keep all records identified in § 63.2343.

(b) For each emission source identified in § 63.2338 that does require control under this subpart:

(1) You must keep all records identified in subpart SS of this part and in Table 12 to this subpart that are applicable, including records related to notifications and reports, SSM, performance tests, CMS, and performance evaluation plans; and

(2) You must keep the records required to show continuous compliance, as required in subpart SS of this part and in Tables 8 through 10 to this subpart, with each emission limitation, operating limit, and work practice standard that applies to you.

(c) For each transport vehicle into which organic liquids are loaded at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, you must keep the applicable records in paragraphs (c)(1) and (2) of this section or alternatively the verification records in paragraph (c)(3) of this section.

* * * * *

(3) In lieu of keeping the records specified in paragraph (c)(1) or (2) of this section, as applicable, the owner or operator shall record that the verification of U.S. DOT tank certification or Method 27 of appendix A to 40 CFR part 60 testing, required in Table 5 to this subpart, item 2, has been performed. Various methods for the record of verification can be used, such as: A check-off on a log sheet, a list of U.S. DOT serial numbers or Method 27 data, or a position description for gate security showing that the security guard will not allow any trucks on site that do not have the appropriate documentation.

(d) You must keep records of the total actual annual facility-level organic liquid loading volume as defined in § 63.2406 through transfer racks to document the applicability, or lack thereof, of the emission limitations in Table 2 to this subpart, items 7 through 10.

(e) An owner or operator who elects to comply with § 63.2346(a)(4) shall keep the records specified in paragraphs (e)(1) through (3) of this section.

(1) A record of the U.S. DOT certification required by § 63.2346(a)(4)(ii).

(2) A record of the pressure relief vent setting specified in § 63.2348(a)(4)(v).

(3) If complying with § 63.2348(a)(4)(vi)(B), keep the records specified in paragraphs (e)(3)(i) and (ii) of this section.

(i) A record of the equipment to be used and the procedures to be followed when reloading the cargo tank or tank car and displacing vapors to the storage tank from which the liquid originates.

(ii) A record of each time the vapor balancing system is used to comply with § 63.2348(a)(4)(vi)(B).

■ 14. Section 63.2394 is amended by revising paragraph (a) to read as follows:

§ 63.2394 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1), including records stored in electronic form at a separate location.

* * * * *

■ 15. Section 63.2396 is amended by revising paragraphs (a), (b), and (e) to read as follows:

§ 63.2396 What compliance options do I have if part of my plant is subject to both this subpart and another subpart?

(a) *Compliance with other regulations for storage tanks.*

(1) After the compliance dates specified in § 63.2342, you are in compliance with the provisions of this subpart for any storage tank that is assigned to the OLD affected source and that is both controlled with a floating roof and is in compliance with the provisions of either 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, except that records shall be kept for 5 years rather than 2 years for storage tanks that are assigned to the OLD affected source.

(2) After the compliance dates specified in § 63.2342, you are in compliance with the provisions of this subpart for any storage tank with a fixed roof that is assigned to the OLD affected source and that is both controlled with a closed vent system and control device and is in compliance with either 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, except that you must comply with the monitoring, recordkeeping, and reporting requirements in this subpart.

(3) As an alternative to paragraphs (a)(1) and (2) of this section, if a storage tank assigned to the OLD affected source is subject to control under 40 CFR part 60, subpart Kb, or 40 CFR part 61, subpart Y, you may elect to comply only with the requirements of this subpart for storage tanks meeting the applicability criteria for control in Table 2 to this subpart.

(b) *Compliance with other regulations for transfer racks.* After the compliance dates specified in § 63.2342, if you have a transfer rack that is subject to 40 CFR part 61, subpart BB, and that transfer rack is in OLD operation, you must meet all of the requirements of this subpart for that transfer rack when the transfer rack is in OLD operation during the loading of organic liquids.

* * * * *

(e) *Overlap with other regulations for monitoring, recordkeeping, and reporting.*

(1) *Control devices.* After the compliance dates specified in § 63.2342, if any control device subject to this subpart is also subject to monitoring, recordkeeping, and reporting requirements of another 40 CFR part 63 subpart, the owner or operator must be in compliance with the monitoring, recordkeeping, and reporting requirements of this subpart EEEE. If complying with the monitoring,

recordkeeping, and reporting requirements of the other subpart satisfies the monitoring, recordkeeping, and reporting requirements of this subpart, the owner or operator may elect to continue to comply with the monitoring, recordkeeping, and reporting requirements of the other subpart. In such instances, the owner or operator will be deemed to be in compliance with the monitoring, recordkeeping, and reporting requirements of this subpart. The owner or operator must identify the other subpart being complied with in the Notification of Compliance Status required by § 63.2382(b).

(2) *Equipment leak components.* After the compliance dates specified in § 63.2342, if you are applying the applicable recordkeeping and reporting requirements of another 40 CFR part 63 subpart to the valves, pumps, and sampling connection systems associated with a transfer rack subject to this subpart that only unloads organic liquids directly to or via pipeline to a non-tank process unit component or to a storage tank subject to the other 40 CFR part 63 subpart, the owner or operator must be in compliance with the recordkeeping and reporting requirements of this subpart EEEE. If complying with the recordkeeping and reporting requirements of the other subpart satisfies the recordkeeping and reporting requirements of this subpart, the owner or operator may elect to continue to comply with the recordkeeping and reporting requirements of the other subpart. In such instances, the owner or operator will be deemed to be in compliance with the recordkeeping and reporting requirements of this subpart. The owner or operator must identify the other subpart being complied with in the Notification of Compliance Status required by § 63.2382(b).

■ 16. Section 63.2402 is amended by revising paragraphs (b)(2), (b)(3), and (b)(4) to read as follows:

§ 63.2402 Who implements and enforces this subpart?

* * * * *

(b) * * *

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

■ 17. Section 63.2406 is amended by:

■ a. Revising the introductory text;

■ b. Revising the definitions of “Annual average true vapor pressure,” “Shutdown,” “Startup,” paragraph (3) in the definition of “Storage tank,” “Transfer rack,” “Vapor balancing system,” and “Vapor collection system;” and

■ c. Adding in alphabetical order definitions for “Bottoms receiver,” “High throughput transfer rack,” “Low throughput transfer rack,” “Surge control vessel,” and “Total actual annual facility-level organic liquid loading volume” to read as follows:

§ 63.2406 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in § 63.2, 40 CFR part 63, subparts H, PP, SS, TT, UU, and WW, and in this section. If the same term is defined in another subpart and in this section, it will have the meaning given in this section for purposes of this subpart. Notwithstanding the introductory language in § 63.921, the terms “container” and “safety device” shall have the meaning found in this subpart and not in § 63.921.

* * * * *

Annual average true vapor pressure means the equilibrium partial pressure exerted by the total Table 1 organic HAP in the stored or transferred organic liquid. For the purpose of determining if a liquid meets the definition of an organic liquid, the vapor pressure is determined using standard conditions of 77 degrees F and 29.92 inches of mercury. For the purpose of determining whether an organic liquid meets the applicability criteria in Table 2, items 1 through 6, to this subpart, use the actual annual average temperature as defined in this subpart. The vapor pressure value in either of these cases is determined:

(1) In accordance with methods described in American Petroleum Institute Publication 2517, Evaporative Loss from External Floating-Roof Tanks (incorporated by reference, see § 63.14);

(2) Using standard reference texts;

(3) By the American Society for Testing and Materials Method D2879–83, 96 (incorporated by reference, see § 63.14); or

(4) Using any other method that the EPA approves.

* * * * *

Bottoms receiver means a tank that collects distillation bottoms before the stream is sent for storage or for further processing downstream.

* * * * *

High throughput transfer rack means those transfer racks that transfer into transport vehicles (for existing affected

sources) or into transport vehicles and containers (for new affected sources) a total of 11.8 million liters per year or greater of organic liquids.

* * * * *

Low throughput transfer rack means those transfer racks that transfer into transport vehicles (for existing affected sources) or into transport vehicles and containers (for new affected sources) less than 11.8 million liters per year of organic liquids.

* * * * *

Shutdown means the cessation of operation of an OLD affected source, or portion thereof (other than as part of normal operation of a batch-type operation), including equipment required or used to comply with this subpart, or the emptying and degassing of a storage tank. Shutdown as defined here includes, but is not limited to, events that result from periodic maintenance, replacement of equipment, or repair.

Startup means the setting in operation of an OLD affected source, or portion thereof (other than as part of normal operation of a batch-type operation), for any purpose. Startup also includes the placing in operation of any individual piece of equipment required or used to comply with this subpart including, but not limited to, control devices and monitors.

Storage tank * * *

(3) Bottoms receivers;

* * * * *

Surge control vessel means feed drums, recycle drums, and intermediate vessels. Surge control vessels are used within chemical manufacturing processes when in-process storage, mixing, or management of flow rates or volumes is needed to assist in production of a product.

* * * * *

Total actual annual facility-level organic liquid loading volume means the total facility-level actual volume of organic liquid loaded for transport within or out of the facility through transfer racks that are part of the affected source into transport vehicles (for existing affected sources) or into transport vehicles and containers (for new affected sources) based on a 3-year rolling average, calculated annually.

(1) For existing affected sources, each 3-year rolling average is based on actual facility-level loading volume during each calendar year (January 1 through December 31) in the 3-year period. For calendar year 2004 only (the first year of the initial 3-year rolling average), if an owner or operator of an affected source does not have actual loading volume data for the time period from

January 1, 2004, through February 2, 2004 (the time period prior to the effective date of the OLD NESHAP), the owner or operator shall compute a facility-level loading volume for this time period as follows: At the end of the 2004 calendar year, the owner or operator shall calculate a daily average facility-level loading volume (based on the actual loading volume for February 3, 2004, through December 31, 2004) and use that daily average to estimate the facility-level loading volume for the period of time from January 1, 2004, through February 2, 2004. The owner or operator shall then sum the estimated facility-level loading volume from January 1, 2004, through February 2, 2004, and the actual facility-level loading volume from February 3, 2004, through December 31, 2004, to calculate the annual facility-level loading volume for calendar year 2004.

(2)(i) For new affected sources, the 3-year rolling average is calculated as an average of three 12-month periods. An owner or operator must select as the beginning calculation date with which to start the calculations as either the initial startup date of the new affected source or the first day of the calendar month following the month in which startup occurs. Once selected, the date with which the calculations begin cannot be changed.

(ii) The initial 3-year rolling average is based on the projected maximum facility-level annual loading volume for each of the 3 years following the selected beginning calculation date. The second 3-year rolling average is based on actual facility-level loading volume for the first year of operation plus a new projected maximum facility-level annual loading volume for second and third years following the selected beginning calculation date. The third 3-year rolling average is based on actual facility-level loading volume for the first 2 years of operation plus a new projected maximum annual facility-level loading volume for the third year following the beginning calculation date. Subsequent 3-year rolling averages are based on actual facility-level loading volume for each year in the 3-year rolling average.

* * * * *

Transfer rack means a single system used to load organic liquids into, or unload organic liquids out of, transport vehicles or containers. It includes all loading and unloading arms, pumps, meters, shutoff valves, relief valves, and other piping and equipment necessary for the transfer operation. Transfer equipment and operations that are physically separate (i.e., do not share

common piping, valves, and other equipment) are considered to be separate transfer racks.

* * * * *

Vapor balancing system means: (1) A piping system that collects organic HAP vapors displaced from transport vehicles or containers during loading and routes the collected vapors to the storage tank from which the liquid being loaded originated or to another storage tank connected to a common header. For containers, the piping system must route the displaced vapors directly to the appropriate storage tank or to another storage tank connected to a

common header in order to qualify as a vapor balancing system; or (2) a piping system that collects organic HAP vapors displaced from the loading of a storage tank and routes the collected vapors to the transport vehicle from which the storage tank is filled.

Vapor collection system means any equipment located at the source (i.e., at the OLD operation) that is not open to the atmosphere; that is composed of piping, connections, and, if necessary, flow-inducing devices; and that is used for:

(1) Containing and conveying vapors displaced during the loading of transport vehicles to a control device;

(2) Containing and directly conveying vapors displaced during the loading of containers; or

(3) Vapor balancing. This does not include any of the vapor collection equipment that is installed on the transport vehicle.

* * * * *

■ 18. Table 1 to subpart EEEE of part 63 is amended by removing the entry for methyl ethyl ketone (2-Butanone) (MEK).

■ 19. Table 2 to subpart EEEE of part 63 is amended by revising entries 1, 6, 7, 8, 9, and 10 to read as follows:

TABLE 2 TO SUBPART EEEE OF PART 63.—EMISSION LIMITS

*	*	*	*	*	*	*
If you own or operate . . .	And if . . .	Then you must . . .				
1. A storage tank at an existing affected source with a capacity ≥18.9 cubic meters (5,000 gallons) and <189.3 cubic meters (50,000 gallons).	a. The stored organic liquid is not crude oil and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥27.6 kilopascals (4.0 psia) and <76.6 kilopascals (11.1 psia). b. The stored organic liquid is crude oil	i. Reduce emissions of total organic HAP (or, upon approval, TOC) by at least 95 weight-percent or, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3 percent oxygen for combustion devices using supplemental combustion air, by venting emissions through a closed vent system to any combination of control devices meeting the applicable requirements of 40 CFR part 63, subpart SS; OR ii. Comply with the work practice standards specified in Table 4 to this subpart, items 1.a, 1.b, or 1.c for tanks storing liquids described in that table.	i. See the requirement in item 1.a.i or 1.a.ii of this table.			
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
6. A storage tank at an existing, reconstructed, or new affected source meeting the capacity criteria specified in Table 2 of this subpart, items 1 through 5.	a. The stored organic liquid is not crude oil and if the annual average true vapor pressure of the total Table 1 organic HAP in the stored organic liquid is ≥76.6 kilopascals (11.1 psia).	i. Reduce emissions of total organic HAP (or, upon approval, TOC) by at least 95 weight-percent or, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3 percent oxygen for combustion devices using supplemental combustion air, by venting emissions through a closed vent system to any combination of control devices meeting the applicable requirements of 40 CFR part 63, subpart SS; OR ii. Comply with the work practice standards specified in Table 4 to this subpart, item 2.a, for tanks storing the liquids described in that table.				
7. A transfer rack at an existing facility where the total actual annual facility-level organic liquid loading volume through transfer racks is equal to or greater than 800,000 gallons and less than 10 million gallons.	a. The total Table 1 organic HAP content of the organic liquid being loaded through one or more of the transfer rack's arms is at least 98 percent by weight and is being loaded into a transport vehicle.	i. For all such loading arms at the rack, reduce emissions of total organic HAP (or, upon approval, TOC) from the loading of organic liquids either by venting the emissions that occur during loading through a closed vent system to any combination of control devices meeting the applicable requirements of 40 CFR part 63, subpart SS, achieving at least 98 weight-percent HAP reduction, OR, as an option, to an exhaust concentration less than or equal to 20 ppmv, on a dry basis corrected to 3 percent oxygen for combustion devices using supplemental combustion air; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3 of Table 4 to this subpart.				

TABLE 2 TO SUBPART EEEE OF PART 63.—EMISSION LIMITS—Continued

*	*	*	*	*	*	*
If you own or operate . . .	And if . . .	Then you must . . .				
8. A transfer rack at an existing facility where the total actual annual facility-level organic liquid loading volume through transfer racks is ≥10 million gallons..	a. One or more of the transfer rack's arms is loading an organic liquid into a transport vehicle.	i. See the requirements in items 7.a.i and 7.a.ii of this table.				
9. A transfer rack at a new facility where the total actual annual facility-level organic liquid loading volume through transfer racks is less than 800,000 gallons.	a. The total Table 1 organic HAP content of the organic liquid being loaded through one or more of the transfer rack's arms is at least 25 percent by weight and is being loaded into a transport vehicle. b. One or more of the transfer rack's arms is filling a container with a capacity equal to or greater than 55 gallons.	i. See the requirements in items 7.a.i and 7.a.ii of this table. i. For all such loading arms at the rack during the loading of organic liquids, comply with the provisions of §§ 63.924 through 63.927 of 40 CFR part 63, Subpart PP—National Emission Standards for Containers, Container Level 3 controls; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3.a of Table 4 to this subpart.				
10. A transfer rack at a new facility where the total actual annual facility-level organic liquid loading volume through transfer racks is equal to or greater than 800,000 gallons.	a. One or more of the transfer rack's arms is loading an organic liquid into a transport vehicle. b. One or more of the transfer rack's arms is filling a container with a capacity equal to or greater than 55 gallons.	i. See the requirements in items 7.a.i and 7.a.ii of this table. i. For all such loading arms at the rack during the loading of organic liquids, comply with the provisions of §§ 63.924 through 63.927 of 40 CFR part 63, Subpart PP—National Emission Standards for Containers, Container Level 3 controls; OR ii. During the loading of organic liquids, comply with the work practice standards specified in item 3.a of Table 4 to this subpart.				

■ 20. Table 3 to subpart EEEE of part 63 is amended by revising entries 3, 5, 6, and 8 to read as follows:

TABLE 3 TO SUBPART EEEE OF PART 63.—OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS

*	*	*	*	*	*	*
For each existing, each reconstructed, and each new affected source using . . .	You must . . .					
3. An absorber to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the absorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Maintain the daily average scrubbing liquid temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the difference between the specific gravities of the saturated and fresh scrubbing fluids greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.					
5. An adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Maintain the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND					

TABLE 3 TO SUBPART EEEE OF PART 63.—OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS—Continued

*	*	*	*	*	*	*	*
For each existing, each reconstructed, and each new affected source using . . .	You must . . .						
6. An adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.	Before the adsorption cycle commences, achieve and maintain the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Achieve a pressure reduction during each adsorption bed regeneration cycle greater than or equal to the pressure reduction established during the design evaluation or performance test that demonstrated compliance with the emission limit. a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.						
8. Another type of control device to comply with an emission limit in Table 2 to this subpart.	Submit a monitoring plan as specified in §§ 63.995(c) and 63.2366(b), and monitor the control device in accordance with that plan.						

■ 21. Table 4 to subpart EEEE to part 63 is revised to read as follows:

TABLE 4 TO SUBPART EEEE OF PART 63.—WORK PRACTICE STANDARDS

[As stated in § 63.2346, you may elect to comply with one of the work practice standards for existing, reconstructed, or new affected sources in the following table. If you elect to do so, . . .]

For each . . .	You must . . .
1. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5.	a. Comply with the requirements of 40 CFR part 63, subpart WW (control level 2), if you elect to meet 40 CFR part 63, subpart WW (control level 2) requirements as an alternative to the emission limit in Table 2 to this subpart, items 1 through 5; OR b. Comply with the requirements of § 63.984 for routing emissions to a fuel gas system or back to a process; OR c. Comply with the requirements of § 63.2346(a)(4) for vapor balancing emissions to the transport vehicle from which the storage tank is filled.
2. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and organic HAP vapor pressure criteria specified in Table 2 to this subpart, item 6.	a. Comply with the requirements of § 63.984 for routing emissions to a fuel gas system or back to a process; OR b. Comply with the requirements of § 63.2346(a)(4) for vapor balancing emissions to the transport vehicle from which the storage tank is filled.
3. Transfer rack subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.	a. If the option of a vapor balancing system is selected, install and, during the loading of organic liquids, operate a system that meets the requirements in Table 7 to this subpart, item 3.b.i and item 3.b.ii, as applicable; OR b. Comply with the requirements of § 63.984 during the loading of organic liquids, for routing emissions to a fuel gas system or back to a process.
4. Pump, valve, and sampling connection that operates in organic liquids service at least 300 hours per year at an existing, reconstructed, or new affected source.	Comply with the requirements for pumps, valves, and sampling connections in 40 CFR part 63, subpart TT (control level 1), subpart UU (control level 2), or subpart H.
5. Transport vehicles equipped with vapor collection equipment that are loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10.	Follow the steps in 40 CFR 60.502(e) to ensure that organic liquids are loaded only into vapor-tight transport vehicles, and comply with the provisions in 40 CFR 60.502(f), (g), (h), and (i), except substitute the term transport vehicle at each occurrence of tank truck or gasoline tank truck in those paragraphs.

TABLE 4 TO SUBPART EEEE OF PART 63.—WORK PRACTICE STANDARDS—Continued

[As stated in § 63.2346, you may elect to comply with one of the work practice standards for existing, reconstructed, or new affected sources in the following table. If you elect to do so, . . .]

For . . .	You must . . .
6. Transport vehicles equipped without vapor collection equipment that are loaded at transfer racks that are subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10.	Ensure that organic liquids are loaded only into transport vehicles that have a current certification in accordance with the U.S. DOT pressure test requirements in 49 CFR 180 (cargo tanks) or 49 CFR 173.31 (tank cars).

■ 22. Table 5 to subpart EEEE of part 63 is revised to read as follows:

TABLE 5 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS AND DESIGN EVALUATIONS

[As stated in §§ 63.2354(a) and 63.2362, you must comply with the requirements for performance tests and design evaluations for existing, reconstructed, or new affected sources as follows:]

For . . .	You must conduct . . .	According to . . .	Using . . .	To determine . . .	According to the following requirements . . .
1. Each existing, each reconstructed, and each new affected source using a nonflare control device to comply with an emission limit in Table 2 to this subpart, items 1 through 10.	a. A performance test to determine the organic HAP (or, upon approval, TOC) control efficiency of each nonflare control device, OR the exhaust concentration of each combustion device; OR	i. § 63.985(b)(1)(ii), § 63.988(b), § 63.990(b), or § 63.995(b).	(1) EPA Method 1 or 1A in appendix A of 40 CFR part 60, as appropriate. (2) EPA Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A of 40 CFR part 60, as appropriate. (3) EPA Method 3 or 3B in appendix A of 40 CFR part 60, as appropriate. (4) EPA Method 4 in appendix A of 40 CFR part 60.	(A) Sampling port locations and the required number of traverse points. (A) Stack gas velocity and volumetric flow rate. (A) Concentration of CO ₂ and O ₂ and dry molecular weight of the stack gas. (A) Moisture content of the stack gas.	(i) Sampling sites must be located at the inlet and outlet of each control device if complying with the control efficiency requirement or at the outlet of the control device if complying with the exhaust concentration requirement; AND (ii) The outlet sampling site must be located at each control device prior to any releases to the atmosphere. See the requirements in items 1.a.i.(1)(A)(i) and (ii) of this table. See the requirements in items 1.a.i.(1)(A)(i) and (ii) of this table. See the requirements in items 1.a.i.(1)(A)(i) and (ii) of this table.

TABLE 5 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS AND DESIGN EVALUATIONS—
Continued

[As stated in §§ 63.2354(a) and 63.2362, you must comply with the requirements for performance tests and design evaluations for existing, reconstructed, or new affected sources as follows:]

For . . .	You must conduct . . .	According to . . .	Using . . .	To determine . . .	According to the following requirements . . .
<p>2. Each transport vehicle that you own that is equipped with vapor collection equipment and is loaded with organic liquids at a transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.</p>	<p>A performance test to determine the vapor tightness of the tank and then repair as needed until it passes the test..</p>	<p>b. A design evaluation (for nonflare control devices) to determine the organic HAP (or, upon approval, TOC) control efficiency of each nonflare control device, or the exhaust concentration of each combustion control device..</p>	<p>(5) EPA Method 18, 25, or 25A in appendix A of 40 CFR part 60, as appropriate, or EPA Method 316 in appendix A of 40 CFR part 63 for measuring formaldehyde.</p> <p>§ 63.985(b)(1)(i).</p> <p>EPA Method 27 in appendix A of 40 CFR part 60.</p>	<p>(A) Total organic HAP (or, upon approval, TOC), or formaldehyde emissions.</p> <p>Vapor tightness</p>	<p>(i) The organic HAP used for the calibration gas for EPA Method 25A must be the single organic HAP representing the largest percent by volume of emissions; AND</p> <p>(ii) During the performance test, you must establish the operating parameter limits within which total organic HAP (or, upon approval, TOC) emissions are reduced by the required weight-percent or, as an option for nonflare combustion devices, to 20 ppmv exhaust concentration.</p> <p>During a design evaluation, you must establish the operating parameter limits within which total organic HAP, (or, upon approval, TOC) emissions are reduced by at least 95 weight-percent for storage tanks or 98 weight-percent for transfer racks, or, as an option for nonflare combustion devices, to 20 ppmv exhaust concentration.</p> <p>The pressure change in the tank must be no more than 250 pascals (1 inch of water) in 5 minutes after it is pressurized to 4,500 pascals (18 inches of water).</p>

TABLE 7 TO SUBPART EEEE OF PART 63.—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS—Continued

For each . . .	If you . . .	You have demonstrated initial compliance if . . .
<p>4. Equipment leak component, as defined in § 63.2406, that operates in organic liquids service ≥300 hours per year at an existing, reconstructed, or new affected source.</p>	<p>b. Install and, during the loading of organic liquids, operate a vapor balancing system.</p> <p>c. Route emissions to a fuel gas system or back to a process.</p> <p>a. Carry out a leak detection and repair program or equivalent control according to one of the subparts listed in Table 4 to this subpart, item 4.a.</p>	<p>i. You design and operate the vapor balancing system to route organic HAP vapors displaced from loading of organic liquids into transport vehicles to the storage tank from which the liquid being loaded originated or to another storage tank connected to a common header.</p> <p>ii. You design and operate the vapor balancing system to route organic HAP vapors displaced from loading of organic liquids into containers directly (e.g., no intervening tank or containment area such as a room) to the storage tank from which the liquid being loaded originated or to another storage tank connected to a common header.</p> <p>i. See item 1.b.i of this table.</p> <p>i. You specify which one of the control programs listed in Table 4 to this subpart you have selected, OR</p> <p>ii. Provide written specifications for your equivalent control approach.</p>

■ 25. Table 8 to subpart EEEE of part 63 is revised to read as follows:

TABLE 8 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS

[As stated in §§ 63.2378(a) and (b) and 63.2390(b), you must show continuous compliance with the emission limits for existing, reconstructed, or new affected sources according to the following table:]

For each . . .	For the following emission limit . . .	You must demonstrate continuous compliance by . . .
<p>1. Storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and liquid organic HAP vapor pressure criteria specified in Table 2 to this subpart, items 1 through 6.</p> <p>2. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.</p>	<p>a. Reduce total organic HAP (or, upon approval, TOC) emissions from the closed vent system and control device by 95 weight-percent or greater, or as an option to 20 ppmv or less of total organic HAP (or, upon approval, TOC) in the exhaust of combustion devices.</p> <p>a. Reduce total organic HAP (or, upon approval, TOC) emissions during the loading of organic liquids from the closed vent system and control device by 98 weight-percent or greater, or as an option to 20 ppmv or less of total organic HAP (or, upon approval, TOC) in the exhaust of combustion devices.</p>	<p>i. Performing CMS monitoring and collecting data according to §§ 63.2366, 63.2374, and 63.2378; AND</p> <p>ii. Maintaining the operating limits established during the design evaluation or performance test that demonstrated compliance with the emission limit.</p> <p>i. Performing CMS monitoring and collecting data according to §§ 63.2366, 63.2374, and 63.2378 during the loading of organic liquids; AND</p> <p>ii. Maintaining the operating limits established during the design evaluation or performance test that demonstrated compliance with the emission limit during the loading of organic liquids.</p>

■ 26. Table 9 to subpart EEEE of part 63 is amended by revising entries 2, 3, 4, 5, 6, and 7 to read as follows:

TABLE 9 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS

*	*	*	*	*	*	*
For each existing, reconstructed, and each new affected source using . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .				
*	*	*	*	*	*	*
2. A catalytic oxidizer to comply with an emission limit in Table 2 to this subpart.	<p>a. Replace the existing catalyst bed before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>b. Maintain the daily average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>c. Maintain the daily average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.</p>	<p>i. Replacing the existing catalyst bed before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>ii. Keeping the applicable records required in § 63.998.</p> <p>i. Continuously monitoring and recording the temperature at the inlet of the catalyst bed at least every 15 minutes and maintaining the daily average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>ii. Keeping the applicable records required in § 63.998.</p> <p>i. Continuously monitoring and recording the temperature at the outlet of the catalyst bed every 15 minutes and maintaining the daily average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>ii. Keeping the applicable records required in § 63.998.</p>				
3. An absorber to comply with an emission limit in Table 2 to this subpart.	<p>a. Maintain the daily average concentration level of organic compounds in the absorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR</p> <p>b. Maintain the daily average scrubbing liquid temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>Maintain the difference between the specific gravities of the saturated and fresh scrubbing fluids greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit.</p>	<p>i. Continuously monitoring the organic concentration in the absorber exhaust and maintaining the daily average concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>ii. Keeping the applicable records required in § 63.998.</p> <p>i. Continuously monitoring the scrubbing liquid temperature and maintaining the daily average temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>ii. Maintaining the difference between the specific gravities greater than or equal to the difference established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>iii. Keeping the applicable records required in § 63.998.</p>				
4. A condenser to comply with an emission limit in Table 2 to this subpart.	<p>a. Maintain the daily average concentration level of organic compounds at the exit of the condenser less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR</p>	<p>i. Continuously monitoring the organic concentration at the condenser exit and maintaining the daily average concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND</p> <p>ii. Keeping the applicable records required in § 63.998.</p>				

TABLE 9 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS—Continued

*	*	*	*	*	*	*
For each existing, reconstructed, and each new affected source using . . .		For the following operating limit . . .			You must demonstrate continuous compliance by . . .	
		b. Maintain the daily average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.			i. Continuously monitoring and recording the temperature at the exit of the condenser at least every 15 minutes and maintaining the daily average temperature less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998.	
5. An adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.		a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Maintain the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Before the adsorption cycle commences, achieve and maintain the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test; AND Achieve greater than or equal to the pressure reduction during the adsorption bed regeneration cycle established during the design evaluation or performance test that demonstrated compliance with the emission limit.			i. Continuously monitoring the daily average organic concentration in the adsorber exhaust and maintaining the concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998. i. Maintaining the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Maintaining the temperature of the adsorption bed after regeneration less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iii. Achieving greater than or equal to the pressure reduction during the regeneration cycle established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iv. Keeping the applicable records required in § 63.998.	
6. An adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 to this subpart.		a. Maintain the daily average concentration level of organic compounds in the adsorber exhaust less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; OR b. Replace the existing adsorbent in each segment of the bed before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit.			i. Continuously monitoring the organic concentration in the adsorber exhaust and maintaining the concentration less than or equal to the reference concentration established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Keeping the applicable records required in § 63.998. i. Replacing the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND ii. Maintaining the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test that demonstrated compliance with the emission limit; AND iii. Keeping the applicable records required in § 63.998.	

TABLE 9 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—HIGH THROUGHPUT TRANSFER RACKS—Continued

*	*	*	*	*	*	*
For each existing, reconstructed, and each new affected source using . . .		For the following operating limit . . .			You must demonstrate continuous compliance by . . .	
7. A flare to comply with an emission limit in Table 2 to this subpart.		a. Maintain a pilot flame in the flare at all times that vapors may be vented to the flare (§ 63.11(b)(5)); AND b. Maintain a flare flame at all times that vapors are being vented to the flare (§ 63.11(b)(5)); AND c. Operate the flare with no visible emissions, except for up to 5 minutes in any 2 consecutive hours (§ 63.11(b)(4)); AND EITHER d.1. Operate the flare with an exit velocity that is within the applicable limits in § 63.11(b)(7) and (8) and with a net heating value of the gas being combusted greater than the applicable minimum value in § 63.11(b)(6)(ii); OR d.2. Adhere to the requirements in § 63.11(b)(6)(i).			i. Continuously operating a device that detects the presence of the pilot flame; AND ii. Keeping the applicable records required in § 63.998. i. Maintaining a flare flame at all times that vapors are being vented to the flare; AND ii. Keeping the applicable records required in § 63.998. i. Operating the flare with no visible emissions exceeding the amount allowed; AND ii. Keeping the applicable records required in § 63.998. i. Operating the flare within the applicable exit velocity limits; AND ii. Operating the flare with the gas heating value greater than the applicable minimum value; AND iii. Keeping the applicable records required in § 63.998. i. Operating the flare within the applicable limits in 63.11(b)(6)(i); AND ii. Keeping the applicable records required in § 63.998.	
*	*	*	*	*	*	*

■ 27. Table 10 to subpart EEEE of part 63 is amended by revising entries 1, 2, 4, 5, and 6 to read as follows:

TABLE 10 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS

*	*	*	*	*	*	*
For each . . .		For the following standard . . .			You must demonstrate continuous compliance by . . .	
1. Internal floating roof (IFR) storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity, and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5.		a. Install a floating roof designed and operated according to the applicable specifications in § 63.1063(a) and (b).			i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each IFR once per year (§ 63.1063(d)(2)); AND ii. Visually inspecting the floating roof deck, deck fittings, and rim seals of each IFR either each time the storage tank is completely emptied and degassed or every 10 years, whichever occurs first (§ 63.1063(c)(1), (d)(1), and (e)); AND iii. Keeping the tank records required in § 63.1065.	
2. External floating roof (EFR) storage tank at an existing, reconstructed, or new affected source meeting any set of tank capacity and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 5.		a. Install a floating roof designed and operated according to the applicable specifications in § 63.1063(a) and (b).			i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each EFR either each time the storage tank is completely emptied and degassed or every 10 years, whichever occurs first (§ 63.1063(c)(2), (d), and (e)); AND ii. Performing seal gap measurements on the secondary seal of each EFR at least once every year, and on the primary seal of each EFR at least every 5 years (§ 63.1063(c)(2), (d), and (e)); AND iii. Keeping the tank records required in § 63.1065.	
*	*	*	*	*	*	*
4. Transfer rack that is subject to control based on the criteria specified in Table 2 to this subpart, items 7 through 10, at an existing, reconstructed, or new affected source.		a. Ensure that organic liquids are loaded into transport vehicles in accordance with the requirements in Table 4 to this subpart, items 5 or 6, as applicable.			i. Ensuring that organic liquids are loaded into transport vehicles in accordance with the requirements in Table 4 to this subpart, items 5 or 6, as applicable.	

TABLE 10 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS—Continued

*	*	*	*	*	*	*
*	*	*	*	*	*	*
For each . . .	For the following standard . . .	You must demonstrate continuous compliance by . . .				
5. Equipment leak component, as defined in §63.2406, that operates in organic liquids service at least 300 hours per year.	b. Install and, during the loading of organic liquids, operate a vapor balancing system.	i. Monitoring each potential source of vapor leakage in the system quarterly during the loading of a transport vehicle or the filling of a container using the methods and procedures described in the rule requirements selected for the work practice standard for equipment leak components as specified in Table 4 to this subpart, item 4. An instrument reading of 500 ppmv defines a leak. Repair of leaks is performed according to the repair requirements specified in your selected equipment leak standards.				
6. Storage tank at an existing, reconstructed, or new affected source meeting any of the tank capacity and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 6.	c. Route emissions to a fuel gas system or back to a process. a. Comply with the requirements of 40 CFR part 63, subpart TT, UU, or H. a. Route emissions to a fuel gas system or back to the process. b. Install and, during the filling of the storage tank with organic liquids, operate a vapor balancing system.	i. Continuing to meet the requirements specified in §63.984(b). i. Carrying out a leak detection and repair program in accordance with the subpart selected from the list in item 5.a of this table. i. Continuing to meet the requirements specified in §63.984(b). i. Monitoring each potential source of vapor leakage in the system quarterly during the loading of a transport vehicle or the filling of a container using the methods and procedures described in the rule requirements selected for the work practice standard for equipment leak components as specified in Table 4 to this subpart, item 4. An instrument reading of 500 ppmv defines a leak. Repair of leaks is performed according to the repair requirements specified in your selected equipment leak standards.				

■ 28. Table 11 to subpart EEEE of part 63 is revised to read as follows:

TABLE 11 TO SUBPART EEEE OF PART 63.—REQUIREMENTS FOR REPORTS

[As stated in §63.2386(a) and (b), you must submit compliance reports and SSM reports according to the following table:]

You must submit a(n) . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report or Periodic Report	a. The information specified in §63.2386(c), (d), (e). If you had a SSM during the reporting period and you took actions consistent with your SSM plan, the report must also include the information in §63.10(d)(5)(i); AND b. The information required by 40 CFR part 63, subpart TT, UU, or H, as applicable, for pumps, valves, and sampling connections; AND c. The information required by §63.999(c); AND d. The information specified in §63.1066(b) including: Notification of inspection, inspection results, requests for alternate devices, and requests for extensions, as applicable.	Semiannually, and it must be postmarked by January 31 or July 31, in accordance with §63.2386(b). See the submission requirement in item 1.a of this table. See the submission requirement in item 1.a of this table. See the submission requirement in item 1.a of this table.
2. Immediate SSM report if you had a SSM that resulted in an applicable emission standard in the relevant standard being exceeded, and you took an action that was not consistent with your SSM plan.	a. The information required in §63.10(d)(5)(ii)	i. By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§63.10(d)(5)(ii)).

■ 29. Table 12 to subpart EEEE of part 63 is amended by:
 ■ (a) Revising entries § 63.6(e)(3), § 63.7(g), § 63.8(c)(6)–(8), § 63.8(d), § 63.8(e), § 63.8(f)(1)–(5), § 63.9(h)(1)–(6), § 63.9(j), and § 63.10(e)(3)(iv)–(v);

■ (b) By removing entries § 63.6(h)(1), § 63.6(h)(2)(i), § 63.6(h)(2)(ii), § 63.6(h)(2)(iii), § 63.6(h)(3), § 63.6(h)(4), § 63.6(h)(5)(i), (iii)–(v), § 63.6(h)(5)(ii), § 63.6(h)(6), § 63.6(h)(7)(i),

§ 63.6(h)(7)(ii), § 63.6(h)(7)(iii), § 63.6(h)(7)(iv), § 63.6(h)(7)(v), § 63.6(h)(8), and § 63.6(h)(9); and

■ (c) By adding entry § 63.6(h) to read as follows:

TABLE 12 TO SUBPART EEEE OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.6(e)(3)	SSM Plan	Requirement for SSM plan; content of SSM plan; actions during SSM.	Yes; however, (1) the 2-day reporting requirement in paragraph § 63.6(e)(3)(iv) does not apply and (2) § 63.6(e)(3) does not apply to emissions sources not requiring control.
§ 63.6(h)	Opacity/Visible Emission Standards.	Requirements for compliance with opacity and visible emission standards.	No; except as it applies to flares for which Method 22 observations are required as part of a flare compliance assessment.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status; keep data for 5 years.	Yes; however, performance test data is to be submitted with the Notification of Compliance Status according to the schedule specified in § 63.9(h)(1)–(6) below.
§ 63.8(c)(6)–(8)	CMS Requirements	Zero and high level calibration check requirements. Out-of-control periods.	Yes, but only applies for CEMS. 40 CFR part 63, subpart SS provides requirements for CPMS.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions.	Yes, but only applies for CEMS. 40 CFR part 63, subpart SS provides requirements for CPMS.
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports.	Yes, but only applies for CEMS.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes, but 40 CFR part 63, subpart SS also provides procedures for approval of CPMS.
§ 63.9(h)(1)–(6)	Notification of Compliance Status.	Contents due 60 days after end of performance test or other compliance demonstration, except for opacity/visible emissions, which are due 30 days after; when to submit to Federal vs. State authority.	Yes; however, (1) there are no opacity standards and (2) all initial Notification of Compliance Status, including all performance test data, are to be submitted at the same time, either within 240 days after the compliance date or within 60 days after the last performance test demonstrating compliance has been completed, whichever occurs first.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	No. These changes will be reported in the first and subsequent compliance reports.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports.	Requirement to revert to quarterly submission if there is an excess emissions or parameter monitoring exceedance (now defined as deviations); provision to request semiannual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emissions (now defined as deviations), report contents in a statement that there have been no deviations; must submit report containing all of the information in § 63.8(c)(7)–(8) and 63.10(c)(5)–(13).	Yes.

TABLE 12 TO SUBPART EEEE OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

Citation	Subject	Brief description	Applies to subpart EEEE
*	*	*	*

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