

**PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE**

7. Section 3.24 is revised to read as follows:

**§ 3.24 Requirements for documents and cover sheets relating to patents and patent applications.**

(a) *For electronic submissions (e.g., Electronic Patent Assignment System (EPAS))*: Either a copy of the original document or an extract of the original document may be submitted for recording. All documents must be submitted as digitized images in Tagged Image File Format (TIFF) or another form as prescribed by the Director. When printed to a paper size of either 21.6 by 27.9 cm (8½ inches by 11 inches) or 21.0 by 29.7 cm (DIN size A4), the document must be legible and a 2.5 cm (one inch) margin must be present on all sides.

(b) *For paper*: Either a copy of the original document or an extract of the original document must be submitted for recording. Only one side of each page may be used. The paper size must be either 21.6 by 27.9 cm (8½ inches by 11 inches) or 21.0 by 29.7 cm (DIN size A4), and in either case, a 2.5 cm (one inch) margin must be present on all sides. The paper used should be flexible, strong, white, non-shiny, and durable.

(c) *Non-return of submissions*: The Office will not return documents submitted for recording. Therefore, original documents must not be submitted for recording.

8. Section 3.25 is amended by revising paragraph (c) as follows:

**§ 3.25 Recording requirements for trademark applications and registrations.**

\* \* \* \* \*

(c) *All documents*. (1) *For electronic submissions (e.g., Electronic Trademark Assignment System (ETAS))*: All documents must be submitted as digitized images in Tagged Image File Format (TIFF) or another form as prescribed by the Director. When printed to a paper size of either 21.6 by 27.9 cm (8½ inches by 11 inches) or 21.0 by 29.7 cm (DIN size A4), the document must be legible and a 2.5 cm (one inch) margin must be present on all sides.

(2) *For paper*: Only one side of each page may be used. The paper size must be either 21.6 by 27.9 cm (8½ inches by 11 inches) or 21.0 by 29.7 cm (DIN size A4), and in either case, a 2.5 cm (one inch) margin must be present on all sides. The paper used should be flexible, strong, white, non-shiny, and durable.

(3) *Non-return of submissions*: The Office will not return documents submitted for recording. Therefore, original documents must not be submitted for recording.

Dated: July 31, 2008.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E8-18025 Filed 8-5-08; 8:45 am]

BILLING CODE 3510-16-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[EPA-HQ-OAR-2003-0121; FRL-8701-8]

RIN 2060-A007

**National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater; and National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing**

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

**ACTION**: Proposed rule; amendments.

**SUMMARY**: On November 10, 2003, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for miscellaneous organic chemical manufacturing. The rule is referred to as the miscellaneous organic NESHAP or the MON. The MON incorporates by reference the wastewater tank requirements in the National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater, which EPA promulgated on April 24, 1994, and which is referred to as the hazardous organic NESHAP or the HON. In this action EPA proposes to amend the HON, and thereby, the MON, by adding an equivalent means of emission limitation for wastewater tanks. This action also clarifies and corrects technical inconsistencies that have been discovered in the MON.

**DATES**: *Comments*. Comments must be received on or before September 22, 2008.

*Public Hearing*. If anyone contacts EPA requesting to speak at a public hearing by August 18, 2008, a public hearing will be held on August 21, 2008.

**ADDRESSES**: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2003-0121, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitting comments.

- *E-mail*: [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov).

- *Fax*: (202) 566-9744.

- *Mail*: U.S. Postal Service, send comments to: Air and Radiation Docket and Information Center, EPA, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery*: In person or by courier, deliver your comments to: Air and Radiation Docket, EPA, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. Please include a total of two copies. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. We request that a separate copy of each public comment also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

*Instructions*: Direct your comments to Docket ID No. EPA-HQ-OAR-2003-0121. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information

about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Docket, EPA West Building, Room 3334, 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.

**Public Hearing.** If you are interested in attending the public hearing, contact Ms. Janet Eck at (919) 541-7946 to verify that a hearing will be held. If a public hearing is held, it will be held at 10 a.m. at EPA's Campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC, or an alternate site nearby. If no one contacts EPA

requesting to speak at a public hearing concerning this rule by August 18, 2008 this hearing will be cancelled without further notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy McDonald, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), U.S. EPA, Research Triangle Park, NC 27711; telephone number: (919) 541-5402; fax number: (919) 541-0246; e-mail address: [mcdonald.randy@epa.gov](mailto:mcdonald.randy@epa.gov).

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

Category	NAICS *	Examples of regulated entities
Industry .....	3251, 3252, 3253, 3254, 3255, 3256, and 3259, with several exceptions.	Producers of specialty organic chemicals, explosives, certain polymers and resins, and certain pesticide intermediates.

\* North American Industrial Classification System.

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 § 63.2435. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**Submitting CBI.** Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

**World Wide Web (WWW).** In addition to being available in the docket, an electronic copy of the proposed rule is also available on the WWW through the Technology Transfer Network. Following signature, a copy of the proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN

provides information and technology exchange in various areas of air pollution control.

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

- I. What amendments are we proposing for the HON, 40 CFR part 63, subpart G?
- II. What technical corrections are we proposing for the MON, 40 CFR part 63, subpart FFFF?
- III. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - 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. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

**I. What amendments are we proposing for the HON, 40 CFR part 63, subpart G?**

The EPA has received a request from Dow Chemical Company for approval of an equivalent means emission limitation for wastewater tanks subject to the MON. The MON incorporates by reference the wastewater tank requirements of the HON in § 63.2485(d) and Table 7 by requiring compliance

with §§ 63.132 through 63.148 of the HON. With one exception, the standards for wastewater tanks in § 63.133(a) of the HON require the owner or operator of an affected wastewater tank to operate and maintain a fixed roof, an internal floating roof, or an external floating roof. Under certain circumstances or as an alternative to these requirements, the owner or operator may operate and maintain a fixed roof with a closed-vent system and control device. If a fixed roof with a closed vent system and control device is used, § 63.133(b) requires that each opening in the roof be closed. The request and evaluation submitted by Dow Chemicals is to use a fixed roof with openings under negative pressure and vapors routed through a closed vent system to a control device as an equivalent means of emission limitation to the fixed roof vented to control device.

An owner or operator of an affected source covered by the HON may request approval to use an equivalent means of emission limitation in accordance with § 63.133(a)(2)(iv). The determination of equivalency to the reduction in emissions achieved by the requirements in § 63.133(a)(2)(i) is based on actual emission tests or engineering evaluation and evaluated according to § 63.102(b). Under § 63.102(b), if, in the judgment of the Administrator, an equivalent means of emission limitation will achieve a reduction in organic hazardous air pollutant (HAP) emissions at least equivalent to the reduction in organic HAP emissions from that source achieved under any design, equipment,

work practice, or operational standards in 40 CFR part 63, subpart G, the Administrator will publish in the **Federal Register** a notice permitting the use of the alternative means for purposes of compliance with that requirement. Any such notice shall be published only after public notice and an opportunity for a hearing.

Moreover, the proposed work practice is an appropriate standard under section 112(h) of the Clean Air Act (CAA). Specifically, CAA section 112(h)(2)(B) provides that a work practice standard can be issued in lieu of an emission standard where it is "not feasible to prescribe or enforce an emission standard." CAA section 112(h)(2)(B) defines the phrase "not feasible to prescribe or enforce an emission standard," to mean a situation where the Administrator determines that "the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations." The proposed work practice is consistent with CAA section 112(h)(2)(B) since applying a measurement methodology to this class of sources is not technologically feasible due to the number of openings and possible emissions points. Emissions from fixed roof tanks are evaporative losses that result from barometric pressure and ambient temperature changes, as well as filling and emptying operations. The flow rate of vent emissions from a tank is very low, except during filling. The concentration of HAP in the vent stream varies with the degree of saturation of HAP in the tank vapor space. The degree of saturation depends on such factors as HAP vapor pressure, tank size, and liquid throughput. Low flow rate and varying concentration make emission measurement impractical.

We discussed work practice standards for wastewater tanks in the preamble to the proposed HON rule (57 FR 62641). We stated:

Although considered first, it was determined that a numerical standard would not be feasible because it would be difficult to capture and measure emissions from this equipment for the purpose of evaluating compliance.

We are considering the Dow Chemical Company's request for a determination of equivalency under §§ 63.102(b) and 63.133(a)(2)(iv) since standards for tanks are work practice standards. Design

features of Dow's wastewater tank include a negative pressure generated from the thermal oxidizer blower to draw the clarifier vent stream to the thermal oxidizer, an air sweep across the headspace to minimize accumulation of flammables, and a low pressure water seal system for the rotating raker arm structure. Dow developed the patented design to address safety and operational issues inherent in wastewater treatment tanks. The tank has uniform air inlets around the circumference of the tank at the roof for evenly distributed air flow into the clarifier.

When a fixed roof with a closed vent system and control device is used to comply with the requirements for wastewater tanks, the owner or operator must meet the requirements in § 63.133(b). Paragraphs § 63.133(b)(1), (2), and (3) contain requirements for the fixed roof, the control device, and the closed vent system, respectively. Paragraph § 63.133(b)(1)(i) requires the fixed roof and all openings be maintained in accordance with the no detectable emissions requirements in § 63.148 and paragraph § 63.133(b)(1)(ii) requires each opening in the fixed roof be maintained in a closed position. The request and evaluation submitted by Dow Chemicals is to use a fixed roof with openings under negative pressure and vapors routed through a closed vent system to a control device as an equivalent means of emission limitation to the fixed roof vented to control device. Since the performance of the closed vent system and control device would be equivalent, Dow's application for equivalency must demonstrate that the fixed roof with openings under negative pressure performs at least as well as the fixed roof.

To show equivalency under §§ 63.102(b) and 63.133(a)(2)(iv), Dow tested for detectable emissions at the openings of the fixed roof under negative pressure. Dow obtained flame ionization detection (FID) readings at these openings and found meter readings of less than 500 parts per million by volume (ppmv) above background. These results indicate no detectable emissions according to § 63.148(d).

Moreover, Dow correctly states that an enclosure with openings under negative pressure has previously been considered by EPA and is an accepted control alternative under the NESHAP for the

pulp and paper industry (40 CFR part 63, subpart S) as well as a control requirement under the Benzene Waste NESHAP (40 CFR part 61, subpart FF).

The Pulp and Paper NESHAP requires pulping equipment systems be enclosed and vapors be vented to a closed vent system and routed to a control device. Each enclosure must maintain negative pressure at each opening. The owner or operator is required to demonstrate initially and annually that each enclosure opening is maintained at a negative pressure using an anemometer, smoke tubes, or other acceptable test method to demonstrate flow into the enclosure opening.

The Benzene Waste NESHAP has provisions for tanks maintained at a pressure less than atmospheric pressure. The standard requires a fixed-roof and closed-vent system that routes all vapors from a tank to a control device. In lieu of maintaining all openings in a closed and sealed position, the owner or operator may choose to maintain the tank at a pressure less than atmospheric pressure.

After considering the information in Dow's request and reviewing prior EPA judgments, we have concluded that Dow has demonstrated that maintaining a fixed roof with openings under negative pressure achieves an equivalent emissions reduction compared to maintaining a fixed roof with no openings as required by §§ 63.102(b) and 63.133(a)(2)(iv).

Therefore, we are proposing to amend § 63.133(b) to allow a fixed roof with openings maintained at negative pressure for owners or operators complying with § 63.133(a)(2)(i) for a fixed roof and closed vent system that routes vapors to a control device.

We are also proposing monitoring requirements to accompany the proposed equivalent means of emission limitation, which demonstrate that the openings in the enclosure are maintained under negative pressure throughout the full range of operating conditions, including periods of startup, shutdown, and malfunction.

## **II. What technical corrections are we proposing for the MON, 40 CFR part 63, subpart FFFF?**

We are proposing to edit several provisions to clarify our intent. These proposed changes are described in Table 1 of this preamble.

TABLE 1—TECHNICAL CLARIFICATIONS AND CORRECTIONS TO THE MON, 40 CFR PART 63, SUBPART FFFF

Subpart FFFF	Description of proposed correction
§ 63.2450(o) .....	We are adding language to clarify that, if hydrogen halide and halogen HAP in a vent stream must be controlled to meet the emission limits in Table 3 to subpart FFFF of 40 CFR part 63, then that vent stream may not be vented to a flare. This clarifies our intent that all other vent streams that contain hydrogen halide and halogen HAP may be vented to a flare.
§ 63.2460(a) .....	We are proposing language to clarify that any combination of emission limits for batch process vents (items 1.a, 1.b, and/or 1.c in Table 2) may be applied to batch process vents.
§ 63.2460(c)(2)(v) .....	We are proposing to add language to clarify that the requirement to demonstrate that a process condenser is properly operated applies only in the case where a HAP is heated above its boiling point. This requirement only applies to HAP in batch process vents and does not apply to HAP as an impurity.
§ 63.2465(b) .....	We are proposing to apply the outlet concentration limit to controlled and uncontrolled process vents.
§ 63.2470(c) .....	For storage tanks we are proposing to incorporate by reference the monitoring requirements in § 63.1258(b)(1)(v) for nonregenerative carbon adsorbers.
§ 63.2485(n)(1) .....	We are adding neutralization units to the requirement that wastewater must be hard-piped between wastewater treatment tanks and the activated sludge unit.
§ 63.2520(c)(2) .....	We are correcting the reference to paragraph § 63.2460(c)(5), the referenced paragraph is § 63.2450(k)(6).
§ 63.2550(i) .....	<ol style="list-style-type: none"> <li>1. We are proposing to add a definition for the term “bench-scale process.” The term will mean the same as “bench-scale batch process,” as defined in § 63.161.</li> <li>2. We are proposing to correct the definition for the term “miscellaneous organic chemical manufacturing process” by removing extruder as an endpoint for processes without an extruder.</li> </ol>
Table 6 to 40 CFR part 63, subpart FFFF.	We are deleting entry 2 as intended (see 70 FR 73121, December 8, 2005). An entry for new sources is not necessary.
Table 7 to 40 CFR part 63, subpart FFF.	We are proposing certain wastewater requirements as an alternative for liquid streams in open systems.

**III. Statutory and Executive Order Reviews**

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

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993), and is, therefore, not subject to review under the Executive Order.

*B. Paperwork Reduction Act*

The action does not impose any new information collection burden. The proposed amendments would give owners and operators another compliance option. Since these changes have the potential to result in minor reductions in the information collection burden, the Information Collection Request has not been revised. However, OMB has previously approved the information collection requirements contained in the existing regulation at 40 CFR part 63, subpart FFFF under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0533. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant

economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today’s proposed amendments on small entities, a small entity is defined as: (1) A small business ranging from up to 500 employees to up to 1,000 employees, depending on the NAICS code; (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; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. The maximum number of employees to be considered a small business for each NAICS code is shown in the preamble to the proposed rule (67 FR 16178).

After considering the economic impacts of this proposed rule on small entities, I certify 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 rule on small entities.” 5 U.S.C. 603 and 604. Thus, an agency may certify 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 proposed amendments include an additional compliance option for wastewater tanks that provide small entities with greater flexibility to comply with the standards. We have therefore concluded that this proposed rule amendments will relieve regulatory burden for all affected small entities.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

*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 one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome

alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows 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, we 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 this rule does 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 one year. This action clarifies and corrects technical inconsistencies that have been discovered. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. These rule amendments clarify and correct technical inconsistencies, thus, should not affect small governments.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" (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."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State or local governments. Thus, Executive Order 13132 does not apply to this rule.

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

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule does not have tribal implications, as specified in Executive Order 13175. The proposed rule amendments provide an owner or operator with an additional option for complying with the emission limits and other requirements in the rule. Thus, Executive Order 13175 does not apply to the proposed rule amendments.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on technology performance.

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

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement

Act (NTTAA), Public Law No. 104-113, (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. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This proposed rule does not involve technical standards. Therefore, EPA is not considering the use of any VCS.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because they do not affect the level of protection provided to human health or the environment. The proposed rule amendments do not relax the control measures on sources regulated by the rule and, therefore, will not cause emissions increases from these sources.

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

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

Dated: July 31, 2008.

**Stephen L. Johnson,**  
Administrator.

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

#### **PART 63—[AMENDED]**

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

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

**Subpart G—[Amended]**

2. Section 63.133 is amended by adding paragraph (b)(1)(iii) to read as follows:

**§ 63.133 Process wastewater provisions—Wastewater tanks.**

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*

(iii) If the fixed-roof and closed-vent system is operated such that a negative pressure is maintained at each opening in the fixed roof, then paragraph (b)(1)(ii) of this section does not apply. Under representative conditions, demonstrate initially and annually that each opening is maintained at negative pressure as specified in § 63.457(e). For a range of operating conditions, the owner or operator shall comply with § 63.145(a)(4)(i).

\* \* \* \* \*

**Subpart FFFF—[Amended]**

3. Section 63.2450 is amended by revising paragraph (o) to read as follows:

**§ 63.2450 What are my general requirements for complying with this subpart?**

\* \* \* \* \*

(o) You may not use a flare to control halogenated vent streams or hydrogen halide and halogen HAP emissions to comply with Table 3.

\* \* \* \* \*

4. Section 63.2460 is amended by revising paragraph (a) and the first sentence in paragraph (c)(2)(v) to read as follows:

**§ 63.2460 What requirements must I meet for batch process vents?**

(a) You must meet each emission limit, or combination thereof, in Table 2 to this subpart that applies to you, and you must meet each applicable requirement specified in paragraphs (b) and (c) of this section.

\* \* \* \* \*

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

(v) If a process condenser is used for boiling operations in which a HAP (not as an impurity) is heated to the boiling point, you must demonstrate that it is properly operated according to the procedures specified in § 63.1257(d)(2)(i)(C)(4) and (d)(3)(iii)(B),

and the demonstration must occur only during the boiling operation.\* \* \*

\* \* \* \* \*

5. Section 63.2465 is amended by revising paragraph (b) to read as follows:

**§ 63.2465 What requirements must I meet for process vents that emit hydrogen halide and halogen HAP or HAP metals?**

\* \* \* \* \*

(b) If any process vents within the process contain greater than 20 parts per million by volume (ppmv) hydrogen halide or halogen HAP, you must determine and sum the uncontrolled hydrogen halide and halogen HAP emissions from each of the process vents within the process using procedures specified in § 63.1257(d)(2)(i) and (ii).

\* \* \* \* \*

6. Section 63.2470 is amended by adding new paragraph (c)(3) to read as follows:

**§ 63.2470 What requirements must I meet for storage tanks?**

\* \* \* \* \*

(c) \* \* \*

(3) For nonregenerative carbon adsorbers, you may choose to comply with the monitoring requirements in § 63.1258(b)(v) in lieu of § 63.995(c).

\* \* \* \* \*

7. Section 63.2485 is amended by revising the first sentence in paragraph (n)(1) to read as follows:

**§ 63.2485 What requirements must I meet for wastewater streams and liquid streams in open systems within an MCPU?**

\* \* \* \* \*

(n) \* \* \*

(1) Wastewater must be hard-piped between the equalization unit, neutralization unit, clarifier, and activated sludge unit.\* \* \*

\* \* \* \* \*

8. Section 63.2520 is amended by revising paragraph (c)(2) to read as follows:

**§ 63.2520 What reports must I submit and when?**

\* \* \* \* \*

(c) \* \* \*

(2) Descriptions of daily or per batch demonstrations to verify that control devices subject to § 63.2450(k)(6) are operated as designed.

\* \* \* \* \*

9. Section 63.2550 is amended in paragraph (i) as follows:

a. Adding a new definition for the term “Bench-scale process” in alphabetical order;

b. Revising paragraph (6) to the definition for “Miscellaneous organic chemical manufacturing process”.

**§ 63.2550 What definitions apply to this subpart?**

\* \* \* \* \*

(i) \* \* \*

*Bench-scale process* means a batch process (other than a research and development facility) that is operated on a small scale, such as one capable of being located on a laboratory bench top. This bench-scale equipment will typically include reagent feed vessels, a small reactor and associated product separator, recovery and holding equipment. These processes are only capable of producing small quantities of product.

\* \* \* \* \*

*Miscellaneous organic chemical manufacturing process*

\* \* \* \* \*

(6) The end of a process that produces a solid material is either up to and including the dryer or extruder, or for a polymer production process without a dryer or extruder, it is up to and including the die plate or solid-state reactor, except in two cases. If the dryer, extruder, die plate, or solid-state reactor is followed by an operation that is designed and operated to remove HAP solvent or residual HAP monomer from the solid, then the solvent removal operation is the last step in the process. If the dried solid is diluted or mixed with a HAP-based solvent, then the solvent removal operation is the last step in the process.

\* \* \* \* \*

**Table 6 to Subpart FFFF of Part 63—[Amended]**

10. Table 6 to subpart FFFF of part 63 is amended by removing entry 2.

**Table 7 to Subpart FFFF of Part 63—[Amended]**

11. Table 7 to subpart FFFF of part 63 is amended by revising entry 3 to read as follows:

\* \* \* \* \*

TABLE 7—TO SUBPART FFFF OF PART 63—REQUIREMENTS FOR WASTEWATER STREAMS AND LIQUID STREAMS IN OPEN SYSTEMS WITHIN AN MCPU

\* \* \* \* \*

For each . . .

You must . . .

TABLE 7—TO SUBPART FFFF OF PART 63—REQUIREMENTS FOR WASTEWATER STREAMS AND LIQUID STREAMS IN OPEN SYSTEMS WITHIN AN MCPU—Continued

*	*	*	*	*	*	*
For each . . .			You must . . .			
*	*	*	*	*	*	*
3. Liquid streams in an open system within an MCPU . . . . .			Comply with the requirements in § 63.149 and the requirements referenced therein, except as specified in § 63.2485. You may comply with the requirements in § 63.133(b)(1)(ii) for tanks.			

[FR Doc. E8-18142 Filed 8-5-08; 8:45 am]  
BILLING CODE 6560-50-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1804 and 1852

RIN 2700-AD38

#### Personal Identity Verification of Contractors

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Proposed rule.

**SUMMARY:** NASA proposes to revise the NASA FAR Supplement (NFS) to update procedures for compliance with Federal Acquisition Regulation (FAR) Subpart 4.13, Personal Identity Verification of Contractor Personnel. FAR 4.13 requires that agencies include their implementing guidance of FIPS 201 and OMB guidance M-05-24 in solicitations and contracts that require the contractor to have routine physical access to Federally-controlled facilities and/or access to Federally-controlled information systems. NASA further proposes to designate The Assistant Administrator, Office of Security and Program Protection as the official with overall responsibility for verifying contractor employee personal identity.

**DATES:** Comments should be submitted on or before October 6, 2008 to be considered in formulation of the final rule.

**ADDRESSES:** Interested parties may submit comments, identified by RIN number 2700-AD38, via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments may also be submitted to Leigh Pomponio, NASA Headquarters, Office of Procurement, Contract Management Division, Washington, DC 20546. Comments may also be submitted by e-mail to [Leigh.Pomponio-1@nasa.gov](mailto:Leigh.Pomponio-1@nasa.gov).

**FOR FURTHER INFORMATION CONTACT:** Leigh Pomponio, NASA, Office of Procurement, Contract Management

Division (Room 5K75); (202) 358-4773; e-mail: [Leigh.Pomponio-1@nasa.gov](mailto:Leigh.Pomponio-1@nasa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Federal Acquisition Circular (FAC 2005-14) implemented a final rule amending the FAR by addressing the contractor personal identification requirements in Homeland Security Presidential Directive (HSPD-12), “Policy for a Common Identification Standard for Federal Employees and Contractors,” and Federal Information Processing Standards Publication (FIPS PUB) Number 201, “Personal Identity Verification (PIV) of Federal Employees and Contractors.” Section 304(A) of the National Aeronautics and Space Act of 1958, 42 U.S.C., Section 2455, provides that the NASA Administrator shall establish such security requirements, restrictions, and safeguards as he deems necessary, and he may arrange for such personnel investigations of contractor and subcontractor employees as he deems appropriate. NASA’s implementing guidance, to be used in conjunction with FAR clause 52.204-9, Personal Identity Verification of Contractor Personnel, is set forth in NASA Interim Directive (NID) Personal Identity Verification (PIV) Policy and Procedures, dated May 24, 2007, to NASA Policy Regulation (NPR)-1600.1, NASA Security Program Procedural Requirements w/Change 1. The purpose of this proposed rule is to establish a new NFS Subpart 1804.13 to address NASA PIV requirements.

This is not a significant regulatory action and, therefore, is not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

##### B. Regulatory Flexibility Act

NASA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it merely implements the FAR Common Identification Standard for Contractors and does not

impose an economic impact beyond that addressed in the FAC 2005-14 publication of the FAR final rule.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) is not applicable because the NFS changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

##### List of Subjects in 48 CFR Parts 1804 and 1852

Government procurement.

**William P. McNally,**

*Assistant Administrator for Procurement.*

Accordingly, 48 CFR parts 1804 and 1852 are proposed to be amended as follows:

1. The authority citation for 48 CFR parts 1804 and 1852 continues to read as follows:

**Authority:** 42 U.S.C. 2455(a), 2473(c)(1).

##### PART 1804—ADMINISTRATIVE MATTERS

2. Subpart 1804.13 is added to read as follows:

##### Subpart 1804.13—Personal Identity Verification of Contractor Personnel

Sec.

1804.1303 Contract clause.

1804.1303-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.204-77, NASA Procedures for Personal Identity Verification of Contractor Personnel, in solicitations and contracts when the Center Chief of Security has determined that a contractor will require routine access to Federally-controlled facilities or access to Federally-controlled information systems. The Center Chief shall make such a determination, on a case-by-case basis, as part of acquisition planning. Section 1807.104(a) requires the contracting officer to coordinate new requirements with the security office and cites NASA NPR 1600.1, NASA Security Program Procedural Requirements, as the procedural document for identifying and processing