

The EPA Administrator, Andrew R. Wheeler, signed the following notice on 03/12/2020, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2018-0833. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 63**

**[EPA-HQ-OAR-2018-0833; FRL-XXXX-X]**

**RIN 2060-AU19**

### **National Emission Standards for Hazardous Air Pollutants: Site Remediation Residual Risk and Technology Review**

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

**ACTION:** Final rule.

**SUMMARY:** This action finalizes the residual risk and technology review (RTR) conducted for the Site Remediation source category regulated under national emission standards for hazardous air pollutants (NESHAP). The U.S. Environmental Protection Agency (EPA) is finalizing the proposed determination that risks due to emissions of air toxics from site remediation sources are acceptable and that no revision to the standards is required to provide an ample margin of safety to protect public health. Based on the results of our technology review, we are promulgating the proposed changes to the leak detection and repair (LDAR) program. In addition, the EPA is finalizing amendments to revise regulatory provisions pertaining to emissions during periods of startup, shutdown and malfunction (SSM), including finalizing work practice requirements for pressure relief devices (PRDs) and the 240-hour maintenance period for control devices on tanks. We are finalizing requirements for electronic submittal of semiannual reports and performance test results. Finally, we are making minor clarifications and corrections. The final revisions to the rule will increase the

level of emissions control and environmental protection provided by the Site Remediation NESHAP.

**DATES:** This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2018-0833. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, 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 <https://www.regulations.gov/>, or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Eastern Standard Time (EST) Monday through Friday. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, contact Matthew Witosky, Sector Policies and Programs Division (E143-05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2865; fax number: (919) 541-0516; and email address: [witosky.matthew@epa.gov](mailto:witosky.matthew@epa.gov). For specific information regarding the risk modeling methodology, contact Matthew Woody, Health and Environmental Impacts Division (C539-02), Office of Air Quality Planning and Standards, U.S. Environmental

Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-1535; fax number: (919) 541-0840; and email address: *woody.matthew@epa.gov*. For information about the applicability of the NESHAP to a particular entity, contact Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue, NW, Washington DC 20460; telephone number: (202) 564-7042; and email address: *Mia.Marcia@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

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

ACC	American Chemistry Council
ADAF	age-dependent adjustment factors
API	American Petroleum Institute
APR	amino and phenolic resins
ASTM	American Society for Testing and Materials
CAA	Clean Air Act
CDX	Central Data Exchange
CEDRI	Compliance and Emissions Data Reporting Interface
CFR	Code of Federal Regulations
CRA	Congressional Review Act
EFH	Exposure Factors Handbook
EPA	Environmental Protection Agency
EtO	ethylene oxide
HAP	hazardous air pollutant(s)
HCl	hydrochloric acid
NEI	National Emissions Inventory
HHRAP	Human Health Risk Assessment Protocol
HI	hazard index
HQ	hazard quotient
IARC	International Agency for Research on Cancer
IBR	incorporation by reference
ICR	Information Collection Request
LDAR	leak detection and repair
MACT	maximum achievable control technology
MIR	maximum individual risk
NAICS	North American Industry Classification System
NESHAP	national emission standards for hazardous air pollutants
NTTAA	National Technology Transfer and Advancement Act
OEHHA	California Office of Environmental Health Hazard Assessment
OEL	open-ended line

OMB	Office of Management and Budget
PAH	polycyclic aromatic hydrocarbon
PB-HAP	hazardous air pollutants known to be persistent and bio-accumulative in the environment
PCDDs	polychlorinated dibenzodioxins
PCDFs	polychlorinated dibenzofurans
POM	polycyclic organic matter
ppm	parts per million
ppmw	parts per million by weight
PRD	pressure relief device
REL	reference exposure level
RFA	Regulatory Flexibility Act
RMMU	remediation material management unit
RTR	residual risk and technology review
SAB	Science Advisory Board
SSM	startup, shutdown, and malfunction
TOSHI	target organ-specific hazard index
tpy	tons per year
UMRA	Unfunded Mandates Reform Act

*Background information.* On September 3, 2019, the EPA proposed revisions to the Site Remediation NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *National Emission Standards for Hazardous Air Pollutant Emissions: Site Remediation Summary of Public Comments and Responses on Proposed Rule (84 FR 46138; September 3, 2019)*, Docket ID No. EPA-HQ-OAR-2018-0833. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

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

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    - H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
    - I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
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    - K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
    - L. Congressional Review Act (CRA)

## **I. General Information**

*A. Does this action apply to me?*

*Regulated entities.* Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1 - NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source Category	NESHAP	NAICS code <sup>1</sup>
Industry	40 CFR part 63, subpart GGGGG	325211 325192 325188 32411 49311 49319 48611 42269 42271
Federal Government		Federal agency facilities that conduct Site Remediation activities.

<sup>1</sup> North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

In addition to being available in the docket, an electronic copy of this final action will also be available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: <https://www.epa.gov/stationary-sources-air-pollution/siteremediation-national-emissionstandards-hazardous-air>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at

<https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national->

*emissions-standards-hazardous*. This information includes an overview of the RTR program and links to project websites for the RTR source categories.

### *C. Judicial Review and Administrative Reconsideration*

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only 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 the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator 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 should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South 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 20460.

## **II. Background**

### *A. What is the statutory authority for this action?*

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. “Major sources” are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent



than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them “as necessary (taking into account developments in practices, processes, and control technologies)” no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).<sup>1</sup> For more information on the statutory authority for this rule, see 84 FR 46138 (September 3, 2019).

*B. What is the Site Remediation source category and how does the NESHAP regulate HAP emissions from the source category?*

The EPA promulgated the final Site Remediation NESHAP at 40 CFR part 63, subpart GGGGG on October 8, 2003. The NESHAP applies to “remediation material.” Site

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<sup>1</sup> The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC v. EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) (“If EPA determines that the existing technology-based standards provide an ‘ample margin of safety,’ then the Agency is free to readopt those standards during the residual risk rulemaking.”).

remediation means one or more activities or processes used to remove, destroy, degrade, transform, immobilize, or otherwise manage remediation material. Monitoring or measuring of contamination levels in media, whether by using wells, sampling, or other means, is not considered to be a Site Remediation. The rule applies only to active remedial operations at sites that are major sources with affected facilities subject to another MACT standard. The Site Remediation NESHAP applies to various types of affected sources including process vents, remediation material management units, and equipment leaks. The affected source for process vents is the entire group of process vents associated with the in-situ and ex-situ remediation processes used at the site to remove, destroy, degrade, transform, or immobilize hazardous substances in the remediation material. Examples of process vents for in-situ remediation processes include the discharge vents to the atmosphere used for soil vapor extraction and underground bioremediation processes. Examples of process vents for ex-situ remediation processes include vents for thermal desorption, bioremediation, and stripping processes (air or steam stripping). The affected source for remediation material management units is the entire group of tanks, surface impoundments, containers, oil-water separators, and transfer systems used for the Site Remediation activities involving clean-up of remediation material. The affected source for equipment leaks is the entire group of remediation equipment components (pumps, valves, etc.) that is intended to operate for 300 hours or more during a calendar year in remediation material service and that contains or contacts remediation material having a concentration of regulated HAP equal to or greater than 10 percent by weight.

The Site Remediation MACT standards include a combination of equipment standards, work practice standards, operational standards, and performance standards for each of the affected emission sources noted above. The source category covered by this MACT standard currently includes approximately 30 facilities.

*C. What changes did we propose for the Site Remediation source category in our September 3, 2019, proposal?*

On September 3, 2019, the EPA published proposed amendments in the **Federal Register** for the Site Remediation NESHAP, 40 CFR part 63, subpart GGGGG, that took into consideration the RTR analyses and also proposed other revisions. The proposed revisions included the following:

- revisions to the equipment leak requirements to require the use of the leak detection thresholds of 40 CFR part 63, subpart UU for valves and pumps, rather than the thresholds of 40 CFR part 63, subpart TT;
- revisions to requirements related to emissions during periods of SSM;
- the addition of requirements for electronic submittal of semiannual reports and performance tests;
- removal of the 240-hour exemption from control requirements for planned routine maintenance of emissions control systems;
- clarifications to the “sealed” requirement of the provisions for open-ended lines (OELs);
- addition of work practice and monitoring requirements for PRDs; and
- several minor clarifications and corrections.

*D. What other actions did we take for the Site Remediation source category in our September 3, 2019, proposal?*

Within the RTR proposal, the EPA separately solicited comment on ways in which the Site Remediation NESHAP could be amended with respect to facilities currently exempt under 40 CFR 63.7881(b)(2) and (3), under a scenario where the EPA removes the exemption. The exemption applies to facilities subject to federally-enforceable oversight under the Resource Conservation and Recovery Act (RCRA) or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In particular, in light of comments received on our 2016 proposal to remove the exemption, the Agency sought additional comment regarding subcategorization or other methods of distinguishing among appropriate requirements for such sources. We explained our intention to use this opportunity to gather additional information in anticipation of addressing these issues through a separate action.

### **III. What is included in this final rule?**

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Site Remediation source category and amends the SR NESHAP based on those determinations. We are also finalizing other proposed changes to the NESHAP and other changes made in consideration of comments received during the public comment period for the proposed rulemaking. In the following subsections, we summarize the final amendments to the Site Remediation NESHAP.

We are not finalizing any changes at this time to the exemption from the Site Remediation NESHAP requirements available for federally-overseen Site Remediations under RCRA or CERCLA, pursuant to 40 CFR 63.7881(b)(2) and (3). The agency is continuing to review comments related to our solicitation on this issue in the RTR proposal, see 84 FR 46167-69 (September 3, 2019), and comments on the May 13, 2016, proposal regarding the exemption (81 FR 29812), and intends to address this issue in a separate action.

*A. What are the final rule amendments based on the risk review for the Site Remediation source category?*

For the Site Remediation source category, we have determined that the current NESHAP reduces risk to an acceptable level, provides an ample margin of safety to protect public health, and prevents adverse environmental effects. Therefore, as we proposed, it is not necessary to revise the NESHAP pursuant to CAA section 112(f).

*B. What are the final rule amendments based on the technology review for the Site Remediation source category?*

We have determined that there have been developments in practices, processes, and control technologies that warrant revisions to the Site Remediation NESHAP. Therefore, to satisfy the requirements of CAA section 112(d)(6), and as we proposed, we are revising the NESHAP to require facilities to use the leak detection thresholds of 40 CFR part 63, subpart UU for valves and pumps, rather than those of 40 CFR part 63, subpart TT. For other Site Remediation emissions sources, we have determined that, as we proposed, there are no viable developments in HAP emission reduction practices, processes, or control technologies to apply, considering the technical feasibility, estimated costs, and emission reductions of the options identified.

*C. What are the final rule amendments pursuant to CAA section 112(d)(2) and (3) for the Site Remediation source category?*

Consistent with the Court's ruling in *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008), we are finalizing the proposed requirements, with two minor modifications, for safety devices, bypasses and closure devices on pressure tanks, and PRDs to ensure a standard continuously applies during malfunctions that result in an emissions release directly to the atmosphere (*i.e.*, an actuation event). These final requirements include work practices that

consist of conducting an analysis of the cause of a PRD actuation event and the implementation of corrective measures. In addition, we are finalizing the proposed criteria for what constitutes a deviation from the work practice requirements. We are also finalizing the proposed requirement that PRDs be monitored with a device or monitoring system that is capable of (1) identifying the pressure release; (2) recording the time and duration of each pressure release; and (3) notifying operators immediately that a pressure release is occurring. Finally, we are finalizing the proposed recordkeeping and reporting requirements associated with releases to the atmosphere from bypasses and PRDs.

In response to comments received on the proposed rule, we are making two modifications to the proposed requirements and one change to the estimate of costs associated with PRD monitoring. One modification is to exclude PRDs on containers from the PRD work practice standards and monitoring requirements, and the other modification is to clarify when a PRD is subject to LDAR requirements and when a PRD is subject to the PRD actuation event work practice requirements. We have also revised the economic analysis for the adoption of the proposed PRD monitoring requirements to reflect the purchase of monitoring equipment for some facilities rather than assuming all facilities already have adequate monitoring systems.

*D. What are the final rule amendments addressing emissions during periods of SSM?*

With one exception, we are finalizing changes to the Site Remediation NESHAP to eliminate the SSM exemption as proposed. Consistent with *Sierra Club v. EPA*, 551 F. 3d 1019 (D.C. Cir. 2008), the EPA has established standards in this rule that apply at all times. Table 3 to Subpart GGGGG of Part 63 (General Provisions applicability table) is being revised to change several references related to requirements that apply during periods of SSM. We also eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or

modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. We determined that facilities in this source category can meet the applicable emission standards in the Site Remediation NESHAP at all times, including periods of startup and shutdown; therefore, the EPA determined that no additional standards are needed to address emissions during these periods.

In response to comments received on the proposed rule, the EPA is making a change to the 240-hour annual control system bypass allowance for planned routine maintenance of a closed vent system or control device. Rather than remove this allowance for all control systems, the final rule will retain the allowance with the addition of a work practice requirement for storage tank control devices and closed vent systems.

*E. What other changes have been made to the NESHAP?*

This rule also finalizes revisions to several other Site Remediation NESHAP requirements. We describe the revisions in the following paragraphs.

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners or operators of site remediation facilities submit electronic copies of required performance test reports, performance evaluation reports, and semi-annual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI).

As proposed, the EPA is not establishing emission standards for inorganic or metal HAP.

Based on comments received on the proposed provisions for OELs, we are not finalizing the proposed language in the Site Remediation NESHAP that OELs are "sealed" by a cap, blind flange, plug or second valve when instrument monitoring of the OEL conducted according to EPA Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 parts per million (ppm) or greater. Since OELs are present at many facilities, additional

consideration of the proposed change would be appropriate because there are multiple source categories that cross-reference the same equipment and operational requirements for OELs. We continue to believe it is important that the standard to seal the OEL includes a clear mechanism for a source to demonstrate compliance with that requirement. Therefore, the EPA intends to continue to evaluate appropriate means of compliance certainty for OELs, including the term “sealed,” and is not finalizing any revisions to the OEL standards applicable to Site Remediation in this action. The EPA emission estimates used in the risk modeling are based on reported emissions and we did not estimate HAP reductions from the proposed approach. For this reason, this decision not to finalize the OEL provisions does not alter our analysis of estimated emissions, risks, and decisions related to risk.

We are finalizing, as proposed, several miscellaneous minor changes to improve the clarity of the rule requirements.

*F. What are the effective and compliance dates of the standards?*

The revisions to the MACT standards being promulgated in this action are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

The compliance date for existing affected sources for the revised SSM requirements is 180 days after the effective date of the standard, **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The requirements for electronic reporting requirements, the revised routine maintenance provisions, the operating and pressure management requirements for PRDs, and the revised requirements regarding bypasses and closure devices on pressure tanks is 180 days after the effective date of the standard, **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For electronic reporting, we have experience with similar industries shows that a time period of a minimum of 90 days, and more typically 180 days, is generally necessary to



successfully complete the changes required to convert reporting mechanisms, including the installation of the necessary hardware and software, becoming familiar with the process of submitting performance test results electronically through the EPA's CEDRI, testing these new electronic submission capabilities, reliably employing electronic reporting, and converting the logistics of reporting processes to different time-reporting parameters.

We are finalizing the 180-day compliance date for the other requirements listed above for existing affected sources because we are finalizing changes to the requirements for SSM by removing the exemption from the requirements to meet a standard during SSM periods and by removing the requirement to develop and implement an SSM plan, as proposed. We have experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during periods of SSM; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements.

The compliance date for existing affected sources to comply with the new PRD actuation work practice standard, including monitoring requirement and actuation event reporting requirements, under 40 CFR 63.7923 is 18 months from the effective date of the final amendment, **[INSERT DATE 18 MONTHS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This time period will allow Site Remediation facility owners and operators to research equipment and vendors, and to purchase, install, test, and properly operate any necessary equipment by the compliance date.

For equipment leaks, the compliance date for existing affected sources is 1 year from the effective date of the standards, **[INSERT DATE 1 YEAR AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This time period is necessary to allow existing affected sources that are currently complying with 40 CFR part 63, subpart TT,

adequate time to modify their existing LDAR programs to comply with the revised standards for pumps and valves.

New affected sources must comply with all of the standards and requirements of the amended rule immediately upon the effective date of the final amendments, **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, or upon startup, whichever is later.

#### **IV. What is the rationale for our final decisions and amendments for the Site**

##### **Remediation source category?**

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket (Docket ID No. EPA-HQ-OAR-2018-0833).

##### *A. Residual Risk Review for the Site Remediation Source Category*

1. What did we propose pursuant to CAA section 112(f) for the Site Remediation source category?

Pursuant to CAA section 112(f), we conducted a residual risk assessment for both affected sources and sources exempt from Site Remediation NESHAP requirements pursuant to 40 CFR 63.7881(b)(2) or (3) (*i.e.*, "RCRA/CERCLA-exempt sources") and presented the results of these assessments separately, along with our proposed decisions regarding risk acceptability and ample margin of safety for affected sources, in the September 3, 2019, RTR proposal (84 FR 46138).<sup>2</sup> The residual risk assessments for the Site Remediation source category included assessment of cancer risk, chronic noncancer risk, and acute noncancer risk

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<sup>2</sup> The risk assessment for exempt sources, while not characterized as a risk acceptability analysis, provides all of the necessary data in order to complete a risk acceptability determination.

due to inhalation exposure, as well as multipathway exposure risk and environmental risk.

The results of the risk assessment for affected sources are presented briefly below in Table 2 of this preamble and in more detail in the residual risk document, *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2020 Risk and Technology Review Final Rule*, which is available in the docket for this rulemaking. The results of the risk assessment for the RCRA/CERCLA-exempt sources are presented briefly below in Table 3 of this preamble and in more detail in the residual risk document, *Residual Risk Assessment for Exempt Sources in the Site Remediation Source Category in Support of the 2020 Risk and Technology Review Final Rule*, which is available in the docket for this rulemaking.

The results of the assessment for affected sources indicated that maximum inhalation cancer risk to the individual most exposed is 1-in-1 million based on actual and allowable emissions (actual emissions were assumed to equal allowable emissions), which is well below the presumptive limit of acceptability (*i.e.*, 100-in-1 million). The total estimated cancer incidence based on actual and allowable emission levels is 0.001 excess cancer case per year, or 1 case every 1,000 years. In addition, the maximum chronic noncancer target organ specific hazard index (TOSHI) due to inhalation exposures is less than 1. The evaluation of acute noncancer risk, which was conservative, showed a maximum hazard quotient (HQ) of 1 for all Site Remediation facilities. Based on the results of the screening analyses for human multipathway exposure to, and environmental impacts from HAP known to be persistent and bio-accumulative in the environment (PB-HAP), we also concluded that the risks to the individual most exposed through ingestion is below the level of concern and no ecological benchmarks are exceeded. The facility-wide cancer and noncancer risks were estimated based on the actual emissions from all emissions sources at site remediation facilities, including those not within the Site Remediation source category. For facility-wide

emissions, the maximum lifetime individual cancer risk to the individual most exposed is 1,000-in-1 million from ethylene oxide (EtO) and the noncancer TOSHI is 5.

TABLE 2 – SITE REMEDIATION INHALATION RISK ASSESSMENT RESULTS FOR AFFECTED SOURCES

Number of Facilities <sup>1</sup>	Maximum Individual Cancer Risk (in 1 million)	Estimated Population at Increased Risk of Cancer $\geq$ 1-in-1 Million	Estimated Annual Cancer Incidence (cases per year)	Maximum Chronic Noncancer TOSHI	Maximum Screening Acute Noncancer HQ
102	Based on Actual Emissions Level <sup>2,3</sup>				
	1	400	0.001	0.1	HQ <sub>REL</sub> = 1 (arsenic compounds)
	Based on Whole Facility Emissions				
	1,000	2,300,000	0.5	5	---

<sup>1</sup> Number of facilities evaluated in the risk analysis.

<sup>2</sup> Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

<sup>3</sup> Actual emissions equal allowable emissions; therefore, actual risks equal allowable risks.

The results of the assessment for RCRA/CERCLA-exempt sources indicated that maximum inhalation cancer risk to the individual most exposed is 4-in-1 million based on actual emissions and allowable emissions (actual emissions were assumed to equal allowable emissions), which is well below the presumptive limit of acceptability (*i.e.*, 100-in-1 million). The total estimated cancer incidence based on actual and allowable emission levels is 0.001 excess cancer cases per year, or 1 case every 1,000 years. In addition, the maximum chronic noncancer TOSHI due to inhalation exposures is less than 1. The evaluation of acute noncancer risk, which was conservative, showed a maximum HQ less than 1 for all of these site remediation facilities. Based on the results of the screening analyses for human multipathway exposure to, and environmental impacts from, PB-HAP, we also concluded that the risks to the individual most exposed through ingestion is below the level of concern and no ecological benchmarks are exceeded. The facility-wide cancer and noncancer risks were estimated based on the actual emissions from all emissions sources at site remediation facilities, including those not within the Site Remediation source category. For facility-wide

emissions, maximum lifetime individual cancer risk to the individual most exposed is 2,000-in-1 million from EtO and the noncancer TOSHI is 7.

TABLE 3 – SITE REMEDIATION INHALATION RISK ASSESSMENT RESULTS FOR EXEMPT SOURCES

Number of Facilities <sup>1</sup>	Maximum Individual Cancer Risk (in 1 million)	Estimated Population at Increased Risk of Cancer ≥ 1-in-1 Million	Estimated Annual Cancer Incidence (cases per year)	Maximum Chronic Noncancer TOSHI	Maximum Screening Acute Noncancer HQ
118	Based on Actual Emissions Level <sup>2,3</sup>				
	4	1,100	0.001	0.3	<1
	Based on Whole Facility Emissions				
	2,000	9,000,000	1	7	---

<sup>1</sup> Number of facilities evaluated in the risk analysis.

<sup>2</sup> Maximum individual excess lifetime cancer risk due to HAP emissions from exempt sources in the source category.

<sup>3</sup> Actual emissions equal allowable emissions; therefore, actual risks equal allowable risks.

We weighed all health risk factors for affected sources, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the residual risks from the Site Remediation source category are acceptable (84 FR 46157; September 3, 2019).

We then considered whether 40 CFR part 63, subpart GGGGG, provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category.

In our ample margin of safety analysis, we identified three control options that could further reduce HAP emissions from the source category. These control options included requiring a higher emissions reduction efficiency for process vents, requiring more stringent leak definition thresholds for certain equipment as part of the currently required LDAR

program, and requiring connector monitoring as part of the currently required LDAR program. For these control options, we proposed that the costs were not reasonable in light of the minimal risk reduction that would be achieved, and these additional HAP emissions controls are not necessary to provide an ample margin of safety to protect public health (84 FR 46158; September 3, 2019).

2. How did the risk review change for the Site Remediation source category?

We have not changed any aspect of the risk assessment since the September 2019 proposal for this source category.

3. What key comments did we receive on the risk review, and what are our responses?

Most of the commenters on the proposed risk review supported our risk acceptability and ample margin of safety determinations for the Site Remediation NESHAP. Some commenters requested that we make changes to our residual risk review approach. However, we evaluated the comments and determined that no changes to our risk assessment methods or conclusions are warranted. A complete summary of these comments and responses are in the comment summary and response document, available in the docket for this action (Docket ID No. EPA-HQ-OAR-2018-0833). The following is a summary of key comments we received regarding the risk review and our responses to those comments.

*Comment:* Several commenters agreed with the EPA's finding that risks from the source category are acceptable, additional emissions reductions are not needed to provide an ample margin of safety, and it is not necessary to set more stringent standards to prevent an adverse environmental effect. One of these commenters added that the risk assessment results show very low risk from the source category. However, another of these commenters asserted that even with the low risk shown, the EPA's risk analysis overstates risk due to the methodology the agency uses. This commenter said that the EPA's model plant approach combined with data gap filling for most of the modeled facilities results in a significant

overestimation of HAP emissions. The commenter also said that the EPA's conservative assumption that the population breathes outdoor air at a fixed residential location for 70 years is an unrealistic assumption that needs to be modified. The commenter pointed out that the California's Office of Environmental Health Hazard Assessment (OEHHA) has revised their methodology for air toxics assessment to use a 30-year residential exposure to identify the maximum exposed individual for cancer risk assessment. Another of the commenters remarked that the EPA should not have used the 70-year exposure assumption for this source category, since Site Remediations typically do not last more than 20 years. The commenter stated that the EPA should have developed and used a factor representative of the typical life of a remediation activity, which would have likely shown even lower risk for the source category. One commenter also asserted that the acute multiplier of 10 used to estimate hourly emissions from annual emissions is not based on Site Remediation data and is a standard EPA multiplier that is overly conservative.

*Response:* The EPA relied on our standardized factor of 70 years for our exposure factor.<sup>3</sup> In this way the EPA has taken a health-protective, or conservative, approach in estimating risks and has found that the risks are acceptable and that the existing standards provide an ample margin of safety to protect public health. Therefore, no additional regulation was proposed based on risk for the category. For this reason, there is no utility in refining the inputs to the risk assessment to further lower the risk estimates.

*Comment:* One commenter stated that the EPA only assessed EtO emissions and risks in the facility-wide risk part of its analysis, where the EPA finds risks of 1,000 to 2,000-in-1 million. The commenter stated that the EPA failed to justify ignoring EtO emissions and resulting health risks from the Site Remediation source category itself. The commenter

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<sup>3</sup> U.S. EPA. *Exposure Factors Handbook*, 2011 Edition (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R-09/052F, 2011.

asserted that the EPA ignored these emissions because the six facilities it had data from did not show EtO emissions, and the EPA believes EtO is unlikely to be emitted during a Site Remediation due to its rapid decomposition. In contrast, the commenter submitted that the monograph on EtO published by the International Agency for Research on Cancer (IARC) suggests EtO has an atmospheric half-life of 211 days. The commenter noted that the IARC monograph goes on to state that data suggest neither rain nor absorption into aqueous aerosols remove EtO from the atmosphere. The commenter stated that the EPA has not provided sound rationale for ignoring evidence of EtO emissions for this source category, and the EPA statements on EtO's rapid decomposition in the environment are not supported by credible scientific findings. The commenter claimed that the EPA is relying on an American Chemistry Council (ACC) study that is not available to the public in the online docket, undermining the Agency's findings and violating the CAA's public notice-and-comment requirements. The commenter explained that the referenced ACC study relies upon a conceptual model that applied various data parameters to determine potential adverse ecological risks and does not provide information with respect to human health risks. The commenter contended that the EPA may not rely on its underlying memorandum and this cited study as the basis to not assess health risk from EtO emissions from Site Remediations. The commenter said the EPA has not shown, based on facts in the record, that there are no emissions and no health risks from this chemical. The commenter also claimed that the EPA's proposal that these emissions are unlikely to be emitted from the source category does not make sense if EtO is emitted from other operations at the sites. The commenter asserted that by refusing to assess the EtO-based risk for this source category, the EPA has failed to satisfy the CAA's requirement to assess and reduce such risk.

*Response:* The data submitted by the commenter does not give the Agency reason to change our position that EtO is unlikely to be a site remediation pollutant. The half-life of a



pollutant in the air is irrelevant to whether EtO is a pollutant likely to be encountered in Site Remediation material. The EPA stands by our assertion that EtO is highly unlikely to persist in remediation material that would be subject to Site Remediation NESHAP, (e.g., soil, water, sediment). This assertion is further evidenced by the lack of any reported EtO emissions in the EPA's National Emissions Inventory (NEI) from site remediation operations. The commenter provided no data to contradict this assertion.

The EPA further disagrees that the sources cited by the commenter do not provide sound rationale for removing EtO as a site remediation pollutant. The EPA included two articles from peer-reviewed scientific journals in the docket for the proposed rule to substantiate its conclusion regarding EtO.<sup>4</sup> The properties of EtO cited in the proposal preamble were taken from these articles. In one article, the fate of EtO in the environment was estimated using the EPI (Estimation Program Interface) Suite™ of modeling programs.<sup>5/</sup>  
<sup>6</sup> The individual estimation programs and/or their underlying predictive methods and equations used within EPI Suite™ have been described in numerous peer-reviewed technical journals. In addition, EPI Suite™ has undergone detailed review by a panel of the EPA's independent Science Advisory Board (SAB), and its September 2007 report can be downloaded. The EPA disagrees that the ACC study cited by the commenter is not in the docket. While the document is not available for direct download from the docket due to its copyright protection, it can be viewed in the EPA Docket Center and is also available from other sources in the public domain.

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<sup>4</sup> See Docket ID Item Nos. EPA-HQ-OAR-2018-0833-0021 and EPA-HQ-OAR-2018-0833-0022.

<sup>5</sup> Staples, C.A., & Gullledge, W. (2006). An environmental fate, exposure and risk assessment of ethylene oxide from diffuse emissions. *Chemosphere*, 65(4), 691-698. doi: 10.1016/j.chemosphere.2006.01.047.

<sup>6</sup> EPI Suite™ website: <https://www.epa.gov/tsca-screening-tools/epi-suitetm-estimation-program-interface>.

*Comment:* One commenter asserted that the EPA's benchmarks for the level of health risk that is considered acceptable are an outdated policy that does not reflect subsequent scientific breakthroughs and public perceptions of acceptable environmental health risks. The commenter disagreed with the EPA's policy that a cancer risk of 100-in-1 million is presumed to be either safe or acceptable, that for acute risks an HQ less than 1 is always acceptable, and that an HQ greater than 1 can be deemed acceptable without reasoned explanation. The commenter stated that the EPA's acceptability benchmarks are based on a 1988 study of people's tolerance for various types of health risk, known as the Survey of Societal Risk.<sup>7</sup> The commenter remarked that the EPA has failed to revisit or update this policy over the decades, even though scientists have made breakthroughs on early-life exposure and children's vulnerability; biomonitoring and other data on adult body burdens of chemicals; the vulnerability of overburdened communities, including socioeconomic disparities; and ways to analyze and control the impacts of pollutants on human health. The commenter listed 17 "landmark" actions from the EPA, other regulatory agencies, and scientific bodies relating to environmental health effects and human susceptibility that have occurred since 1990, which the commenter states make the current EPA policy outdated. The commenter asserted that the EPA acceptability benchmark policy needs to be reformed in the face of increasing evidence that challenges the assumption of a safe or acceptable level of HAP exposure.

*Response:* The EPA considers this comment outside the scope of the risk review for the Site Remediation source category. As the commenter notes, this level of acceptable risk

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<sup>7</sup> Survey of Risks, Benzene Rule Legacy Docket ID No. OAQPS 79-3, Part I, Docket Item X-B-1 (cited at National Emission Standards for Hazardous Air Pollutants; Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants, 53 FR 28496, 28512/3-13/3 (July 28, 1988)).

was determined based on the EPA's prior analysis of general perception of relative risk (see Benzene NESHAP, 54 FR 38046). The task of re-determining the public's general concern for the level of acceptable risk falls outside the scope of an individual risk review.

However, our discussion in the proposal preamble addresses the commenter's concern (See 84 FR 46143; September 3, 2019)—though providing this explanation is not intended to reopen our approach. The scope of the EPA's risk analysis is consistent with the EPA's response to comments on our policy under the Benzene NESHAP, where the EPA explained that “[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR [maximum individual risk] figure be considered, but also incidence, the presence of noncancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the Vinyl Chloride mandate that the Administrator ascertain an acceptable level of risk to the public by employing his expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in his judgment, believes are appropriate to determining what will ‘protect the public health.’” (54 FR at 38057; September 14, 1989.)

The EPA subsequently adopted this approach in its residual risk determinations and the Court upheld the EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *NRDC v. EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008).

*Comment:* One commenter claimed that the EPA did not assess whether the health risk and emissions reductions of the rule provide an ample margin of safety. The commenter

stated that the EPA only considered the cost and feasibility of available control measures from its technology review, did not consider facility-wide risks, and ignored exempt sources in its ample margin of safety decision. The commenter cited the Court decision, *Sierra Club v. EPA*, 895 F.3d 1 (D.C. Cir. 2018) to support their comment. Additionally, the commenter said the EPA did not provide the underlying data it used to reach its facility-wide risk determinations.

*Response:* The EPA disagrees with the comment. The risk assessment demonstrated that health risks due to air emissions from site remediation sources are acceptable and after considering available control options and all available risk information, the EPA concluded that the current standards provide an ample margin of safety to protect public health. The commenter misconstrues the analysis at pages 46157-58 of the proposal. The EPA had already made a determination, consistent with the methodology of the Benzene NESHAP, that the risk posed by emissions from the affected sources in the Site Remediation source category is acceptable. See 84 FR 46157 (September 3, 2019), section C.1 “risk acceptability.” The EPA proceeds to look at potential measures that could further reduce risk in the ample margin of safety determination, and in that context, has consistently historically considered multiple factors, including control technology cost, cost effectiveness, feasibility, and the magnitude of risk and potential risk reduction, as well as uncertainties. See *NRDC v. EPA*, 529 F.3d 1077, 1080-83 (D.C. Cir. 2008) (upholding as reasonable the EPA’s interpretation that CAA section 112(f)(2)(A) does not mandate establishing emission standards to reduce cancer risks below 1-in-1 million and recognizing that CAA section 112(f)(2) incorporates the EPA’s approach in the Benzene NESHAP).

The Court decision cited by the commenter,<sup>8</sup> *Sierra Club v. EPA*, 895 F.3d 1 (D.C. Cir. 2018), addressed the basis for setting a health-based emission limit based on a health

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<sup>8</sup> See the comment letter in Docket ID Item No.EPA-HQ-2018-0833-0069, p 45.

threshold in lieu of a technology-based standard for hydrochloric acid (HCl) under section 112(d)(4) of the CAA, not making a determination under section 112(f)(2) of the CAA.

The EPA did not contemplate an ample margin of safety analysis for RCRA/CERCLA-exempt sources because they are not subject to the emissions standards in the rule. The ample margin of safety portion of a CAA section 112(f) analysis necessarily entails an evaluation of control options. For the EPA to undertake an ample margin of safety analysis for the exempt sources, a final determination would first be needed to eliminate the exemption and evaluate control options. We have not yet concluded how these sources should be regulated under the Site Remediation NESHAP. While we requested comment on issues related to eliminating the exemption, we are not acting on the exemption in this RTR process. As noted in our separate request for comment on the exempt status of such facilities in the RTR proposal, the EPA continues to analyze the effect of removing the exemption in terms of designing appropriate regulatory provisions should the exemption be removed.

The EPA considered facility-wide risks and determined that Site Remediation emissions are not driving those risks. The risk at two facilities where facility-wide risk was greater than 100-in-1 million was driven by EtO, which, as explained at proposal, to the EPA's knowledge, is not emitted from Site Remediation activities. Also, as noted in the proposal, the EPA is separately addressing EtO emissions in response to the results of the latest National Air Toxics Assessment released in August 2018, which identified the chemical as a potential concern in several areas across the country.

The EPA disagrees that we did not provide the data for our whole-facility analysis. The data files were placed in the docket for public review upon publication (see Docket ID Item No. EPA-HQ-OAR-2018-0833-0037).

4. What is the rationale for our final approach and final decisions for the risk review?

As explained in our proposal, the EPA sets standards under CAA section 112(f)(2) using “a two-step standard setting approach, with an analytical first step to determine an ‘acceptable risk’ that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand” (see 54 FR 38045; September 14, 1989). We weigh all health risk measures and factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum noncancer TOSHI, the maximum acute noncancer HQ, the extent and distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

In the second step of the approach, the EPA considers whether the emissions standards provide an ample margin of safety to protect public health “in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.”<sup>9</sup> The EPA must promulgate emission standards necessary to provide an ample margin of safety to protect public health or determine that the standards being reviewed provide an ample margin of safety without any revisions. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule, we determined that the risks from the Site Remediation source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, we are not revising 40 CFR part 63, subpart GGGGG to require additional

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<sup>9</sup> 54 FR 38045, September 14, 1989.

controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).<sup>10</sup>

*B. Technology Review for the Site Remediation Source Category*

1. What did we propose pursuant to CAA section 112(d)(6) for the Site Remediation source category?

category?

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for the emission sources in the Site Remediation source category. At proposal, we identified developments in practices, processes, or control technologies for process vents and equipment leaks.

For process vents, one potential control technology was identified at proposal, use of a regenerative thermal oxidizer, which could increase the emissions capture and control efficiency from 95 percent to 98 percent for those process vents that are currently controlled with a carbon adsorption system or other device achieving 95-percent control. We estimated the HAP emissions reduction beyond the current control requirements could range between 0.09 and 0.18 tpy for the source category, and the estimated costs would be \$1 million to \$2 million per ton of HAP emission reduction.

For equipment leaks, we identified the more stringent leak definitions of 40 CFR part 63, subpart UU over those of 40 CFR part 63, subpart TT as a development in practices, processes, or control technologies at proposal. Two options were identified: Option 1— requiring the use of the leak detection thresholds of 40 CFR part 63, subpart UU, for valves and pumps; Option 2— requiring the use of the leak detection thresholds of 40 CFR part 63,

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<sup>10</sup> The Court upheld this approach to CAA section 112(f)(2) in *NRDC v. EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008): “If EPA determines that the existing technology-based standards provide an ‘ample margin of safety,’ then the Agency is free to readopt those standards during the residual risk rulemaking.”

subpart UU for valves and pumps and also requiring connector monitoring under 40 CFR part 63, subpart UU. For Option 1, we estimated an additional HAP emission reduction of up to 4.7 tpy and estimated the costs would be \$2,000 per ton of HAP emission reduction. For Option 2, we estimated the HAP emission reduction incremental to Option 1 would be approximately 5 tpy and the incremental cost effectiveness between Option 1 and Option 2 would be \$35,000 per ton of HAP emission reduction.

Based on the costs and the emission reductions that would be achieved with the identified developments, we proposed to revise the MACT standard pursuant to CAA section 112(d)(6) to require facilities to use the leak detection thresholds of 40 CFR part 63, subpart UU, for valves and pumps, without the subpart UU requirements for connectors in gas/vapor service and in light liquid service. We proposed that it was not necessary to revise the MACT standards pursuant to CAA section 112(d)(6) to require 98-percent control for process vents, based on the use of a regenerative thermal oxidizer. More information concerning our technology review can be found in the memorandum titled *CAA section 112(d)(6) Technology Review for the Site Remediation Source Category*, which is available in the docket for this action and in the preamble to the proposed rule (84 FR 46160 and 46161; September 3, 2019).

2. How did the technology review change for the Site Remediation source category?

The technology review has not changed from proposal to this final action. As explained below, the comments received were generally supportive of the revisions to the equipment leak requirements to require the use of the leak detection thresholds of 40 CFR part 63, subpart UU, for valves and pumps, to not require connector monitoring for equipment leaks, and to not require changes to the NESHAP for process vents.

3. What key comments did we receive on the technology review, and what are our responses?



Most of the commenters on the proposed technology review supported our proposed revised standards for equipment leaks and our determination that revised standards for process vents are not necessary for the Site Remediation NESHAP. One commenter requested that we consider additional elements in our technology review, including incorporating exempt sources in our analysis of the cost effectiveness of connector monitoring, considering leakless equipment in our review of the equipment leak standards, and considering a different threshold for cost effectiveness. A complete summary of these and other comments and responses are in the comment summary and response document, available in the docket for this action (Docket ID No. EPA-HQ-OAR-2018-0833). The following is a summary of key comments we received regarding the technology review and our responses to those comments.

*Comment:* One commenter asserted that the EPA must evaluate developments in practices, processes, and control technologies to reduce inorganic HAP and HAP metal emissions and must revise its existing standards by setting limits that reflect the use of these practices, processes, and control technologies. As emissions standards in the Site Remediation NESHAP currently do not apply to these HAP, the commenter noted that the EPA did not include these HAP in its technology review. The commenter stated that the EPA must set emission standards for each HAP that a source category emits and then must also determine whether developments in pollution control make it “necessary” to revise the emission standards.

*Response:* We acknowledge that the Site Remediation NESHAP does not contain emissions standards for metal HAP and inorganic HAP. However, the EPA’s duty under CAA section 112(d)(6) is to review the standards promulgated under CAA section 112(d)(2) and to evaluate any developments in practices, processes, and control technologies to determine whether it is necessary to revise the existing standards.

The EPA's decision to consider regulation of these pollutants in this rulemaking is not governed by or mandated by CAA section 112(d)(6). That provision requires the EPA to review and revise, as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section. We do not agree with the commenter's assertion that the EPA must establish new standards for unregulated emission points or pollutants as part of a technology review of the existing standards. The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to, at least every 8 years, review the emission standards already promulgated in the NESHAP and to revise those standards as necessary, taking into account developments in practices, processes, and control technologies. Nothing in CAA section 112(d)(6) directs the Agency to develop new emission standards to address HAP or emission points for which standards were not previously promulgated as part of or in conjunction with the mandatory 8-year technology review.

When the EPA establishes standards for previously unregulated emissions, we would establish the standards under one of the provisions that govern initial standard setting--CAA sections 112(d)(2) and (3) or, if the prerequisites are met, CAA section 112(d)(4) or CAA section 112(h). Establishing emissions standards under these provisions of the CAA involves a different analytical approach from reviewing emissions standards under CAA section 112(d)(6).

While we did not consider establishing standards for these HAP under CAA section 112(d)(6), we did investigate these HAP to determine whether standards should be established under CAA section 112(d)(2) or (3). In our review of the data for affected sources, we found that metal HAP are not emitted. Therefore, standards are not required for these pollutants (see 84 FR 46161; September 3, 2019) and our discussion of this issue in section D.1.a of this document.) This analysis satisfies the investigation into these pollutants

that the EPA said it intended to undertake for these HAP in response to Sierra Club's petition for reconsideration of the initial NESHAP rulemaking.<sup>11</sup> For inorganic HAP, based on the EPA's analysis of the available emissions data for affected sources, only one Site Remediation operation emitted any inorganic HAP. The one inorganic HAP emitted by this Site Remediation is asbestos, and asbestos emissions are already regulated by another NESHAP (as discussed in more detail below). Therefore, we determined it was not necessary to evaluate these emissions further or to establish standards under CAA sections 112(d)(2) or (3) for these emissions.

*Comment:* One commenter stated that the EPA should do more than it proposed for regulating equipment leaks because there have been additional developments in equipment, such as leakless or low-emission valves and zero-emissions technologies, and the commenter asserts that these technologies should be required. The commenter also remarked that the EPA's rationale for not requiring connector monitoring is flawed, in that it did not account for emissions reductions from the facilities exempt from the rule under the RCRA/CERCLA exemption. The commenter opined that since these facilities have not had to comply with the existing Site Remediation standards, it is likely there would be greater emissions reductions from these facilities, which would result in an improvement in the cost effectiveness of the measure. The commenter also mentioned that considering cost on a per ton basis for all emitted HAP does not make sense when the pollutants have vastly varying toxicities. The commenter further stated that the EPA does not explain why it believes an incremental cost of \$35,000 per ton of HAP reduced is an unreasonable cost.

*Response:* First, we disagree that leakless valves and low-emissions technologies should have been included in the technology review. These and similar types of equipment

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<sup>11</sup> See Letter from Janet McCabe to James Pew (March 25, 2015) (Docket ID Item No. EPA-HQ-OAR-2018-0833-0012) (granting reconsideration of 68 FR 58172 (October 8, 2003)).

were available and accounted for when the original NESHAP was promulgated, and, therefore, they are not “developments” in technology.<sup>12</sup> The commenter has not identified “developments” in relation to this technology, such as a significant decrease in cost or a change in applicability to the Site Remediation source category. Next, in determining the impacts from any control options, we include only the emissions and reductions that would actually be expected to occur as a result of the implementation of that control option. In this case, since some facilities are exempt from emissions control requirements, the impacts are based on the emissions reductions and costs of implementation at the facilities that would be required to comply with the regulations. If the currently exempt facilities become subject to emissions control requirements in the future, we will reassess the impacts of potential control options at that time.

The EPA disagrees that, for this action, an analysis that relies on a cost-per-ton basis “does not make sense” when different HAP have different toxicities. We note that when assessing the cost effectiveness of more stringent standards under consideration, we have discretion to express emission reductions that would result from such standards in any reasonable format, such as costs per ton of emissions reduced. In this case, as explained at proposal, the risk for the Site Remediation source category was low, using both the quantity and toxicity of emitted pollutants to arrive at this conclusion. The EPA also adds that a cost-per-ton basis may not be the only economic consideration when deliberating on whether to adopt controls. The EPA also looks, where appropriate, at the broader economic impact a given control technique may have on the category of sources when deciding whether to adopt a given standard.

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<sup>12</sup> U.S. EPA. *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Site Remediation (40 CFR part 63, subpart GGGGG) - Background Information for Promulgated Standards*. Office of Air Quality Planning and Standards. Research Triangle Park, NC. August 2003. pp. 44 - 45.

With respect to the role of cost in our decisions under the technology review, we note that courts have not required the EPA to demonstrate that a technology is “cost-prohibitive” in order not to require adopting a new technology under CAA section 112(d)(6); a simple finding that a control is not cost effective is enough. See *Association of Battery Recyclers, et al. v. EPA, et al.*, 716 F.3d 667, 673-74 (D.C. Cir. 2015) (approving the EPA’s consideration of cost as a factor in its section 7412(d)(6) decision-making and EPA’s reliance on cost effectiveness as a factor in its standard-setting). The EPA declined to include connectors in our decision to lower the definition of the leak threshold, based on the fact that, relative to a limited impact on emissions, the addition of connectors would have increased the cost of the LDAR program by more than an order of magnitude from the option chosen (*i.e.*, lower leak thresholds for pumps and valves).

4. What is the rationale for our final approach for the technology review?

Based on our analysis for equipment leaks, we have determined the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. We do not believe the costs of Option 2 are reasonable, given the level of HAP emissions reduction Option 2 would achieve relative to a much higher incremental cost-per-ton above Option 1. Therefore, as a result of the technology review, pursuant to CAA section 112(d)(6), we are finalizing our proposed determination to revise the Site Remediation NESHAP to require existing and new affected sources to comply with the 40 CFR part 63, subpart UU leak detection thresholds for pumps and valves rather than leak thresholds of 40 CFR part 63, subpart TT, for those components.

For the reasons discussed above and in the preamble to the proposed rule, we have determined that it is not necessary, pursuant to CAA section 112(d)(6), to revise the Site Remediation NESHAP to require additional HAP emission controls for process vents or any other equipment or processes at Site Remediation facilities.

*C. CAA Sections 112(d)(2) and (3) Amendments*

1. What did we propose pursuant to CAA sections 112(d)(2) and (3) for the Site Remediation source category?

We proposed to add a work practice standard pursuant to CAA section 112(h)(2)(B), in conjunction with CAA sections 112(d)(2) and (3), for PRDs. PRDs are valves, rupture disks, or other equipment designed to remain closed during normal operation but that “actuate” (*e.g.*, the valve seat opens or a rupture disk ruptures) in the event of an overpressure in the system caused by operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that results in immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage. The current Site Remediation NESHAP follows the EPA’s previous practice of exempting SSM events from otherwise applicable emission standards. Consequently, with emissions releases from a PRD release actuation event treated as a type of malfunction, the Site Remediation NESHAP did not restrict emissions releases to the atmosphere from a PRD actuation event (*i.e.*, PRD releases were exempt from the otherwise applicable emission standards). In *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008), the Court determined SSM exemptions in CAA section 112 standards violate the CAA.

To ensure a standard continuously applies during malfunctions that result in emissions from a PRD actuation event, we proposed work practices and other provisions for PRDs and bypass lines on closed vent systems. We explained that a work practice standard is warranted under CAA section 112(h) because the application of measurement technology to this class of sources is not practicable due to technological and economic limitations. See 84 FR 46153 (September 3, 2019). Modeling the work practice standard on the Petroleum Refinery Sector RTR (80 FR 75178; December 1, 2015), we proposed to add work practice requirements that consist of conducting an analysis of the cause of a PRD actuation event and the

implementation of corrective measures for PRDs that emit directly to the atmosphere. In addition, we proposed criteria for what constitutes a deviation from the work practice requirements. For PRDs that vent emissions from actuation events directly to the atmosphere, we proposed it would be a deviation of the work practice standard for a single PRD to have two releases within a 3-year period due to the same cause; for a single PRD to have three releases within a 3-year period for any reason; and for any PRD to have a release for which the cause was determined to be operator error or poor maintenance. We also proposed that “force majeure” events, which we proposed to define as events resulting from natural disasters, acts of war or terrorism, or external power curtailment beyond the facility’s control (as demonstrated to the satisfaction of the EPA Administrator), would not be included when counting the number of releases. We proposed that certain PRDs would not be subject to the work practice requirements due to their low potential to emit substantial quantities of HAP. These PRDs included the following: (1) PRDs designed and operated to route all pressure releases through a closed vent system to a drain system, fuel gas system, process or control device; (2) PRDs in heavy liquid service; (3) PRDs that are designed solely to release due to liquid thermal expansion; and (4) pilot-operated and balanced bellows PRDs if the primary release valve associated with the PRD is vented through a control system.

To ensure compliance with these provisions, we also proposed that facilities subject to the Site Remediation NESHAP monitor PRDs in remediation material service that release to the atmosphere by using a device or system that is capable of identifying and recording the time and duration of each actuation event and notifying operators immediately that a pressure release is occurring. We further proposed to require owners or operators to keep records and report any actuation event and the amount of HAP released to the atmosphere with the next periodic report. In addition, to add clarity to these provisions, we proposed to add definitions for “bypass,” “force majeure event,” “pressure release,” and “pressure relief device or valve”

to 40 CFR part 63, subpart GGGGG. We also proposed to remove the definition of “safety device” and the provisions related to safety devices from 40 CFR part 63, subpart GGGGG, which would overlap with and be redundant of parts of the proposed definition of “pressure relief device or valve” and the provisions related to these devices.

For purposes of estimating the costs of the proposed requirement to monitor HAP releases to the atmosphere from PRDs, we assumed that operators would already have monitoring systems capable of identifying and recording the time and duration of each pressure release.

In the proposed rule, we removed the exemption from emissions standards for periods of SSM in accordance with a decision of the Court, *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008), *cert. denied*, 130 S. Ct. 1735 (U.S. 2010). This decision stated that the EPA must provide standards that are in place at all times, even during periods of SSM. The EPA has interpreted this to include provisions exempting sources from otherwise applicable standards during maintenance periods. Thus, we also proposed to remove the provision at 40 CFR 63.7925(b)(1) that allowed a control device to be bypassed for up to 240 hours per year for the performance of planned routine maintenance of the closed vent system or control device (*i.e.*, 240-hour routine maintenance exemption). As a result, the emissions limits, including those for tanks, in the proposed revised Site Remediation NESHAP would apply at all times.

2. How did the proposed amendments pursuant to CAA sections 112(d)(2) and (3) change for the Site Remediation source category?

We have made two revisions to the proposed work practice and associated monitoring requirements and also revised the estimate of costs associated with PRD monitoring. The revisions to the proposed work practice and monitoring requirements include adding PRDs to the list of Site Remediation equipment in 40 CFR 63.7882 to help clarify when a PRD is subject to equipment leak requirements and when it is subject to the PRD actuation event



work practice requirements. We are also revising the proposed PRD provisions to exclude PRDs on “containers” (as defined at 40 CFR 63.7957) from the PRD work practice standards and monitoring requirements. Additionally, we have revised the economic analysis for the adoption of the proposed PRD monitoring requirements to reflect the purchase of monitoring equipment for some facilities rather than assuming all facilities already have adequate monitoring systems.

3. What key comments did we receive on the proposed amendments pursuant to CAA sections 112(d)(2) and (3), and what are our responses?

*Comment:* Several commenters recommended that the EPA amend 40 CFR 63.7923(d) to include an exemption for PRDs on mobile equipment, similar to the exemption in the Petroleum Refineries NESHAP in 40 CFR 63.648(j)(5)(vi). One of these commenters extended this recommendation to portable containers, similar to the exemption in the Off-Site Waste and Recovery Operations (OSWRO) NESHAP. This commenter is concerned that the EPA has not evaluated the HAP emissions that may be associated with PRDs on portable equipment, noting that containers are generally already subject to separate MACT requirements which would address their emissions. The commenter also remarked that since facilities generally do not own tank trucks and other transport vehicles, and they are not dedicated to the facility, it would be impractical and overly broad to impose monitoring requirements on them. Further, the commenter is concerned that potential monitoring requirements would be technically infeasible to implement on containers due to the wide range of containers and their transitory nature. Specifically, the commenter noted that containers can vary drastically in size from site to site and cover a variety of cylinders, drums, tote-tanks, cargo tanks, isotainers, railcars, over-the-road tanker vehicles, etc. The commenter also remarked that the time they are kept on site depends highly on facility-specific operational activities and can range anywhere from a few days to a few weeks or

months. Combined, the commenter said these factors make it incredibly difficult, if not impossible, to appropriately design and effectively implement a continuous monitoring system for each container's PRD.

One commenter also recommended that the EPA include an exemption for PRDs that do not have the potential to emit 72 pounds (lbs)/day or more of volatile organic compounds (VOC) based on the valve diameter, the set release pressure, and the equipment contents, similar to the exemption in the Petroleum Refineries NESHAP in 40 CFR 63.648(j)(5)(v). The commenter stated that the EPA's logic for that exemption, which is that it was consistent with the treatment of miscellaneous process vents and consistent with the two California rules (Bay Area and South Coast) that served as the MACT floor for the Petroleum Refineries NESHAP, also applies to this rule.

*Response:* The EPA agrees that an exception would be appropriate for moveable equipment, such as trucks with containers, or tanks, train cars, and similar moveable equipment that may be brought to a Site Remediation for short durations. The EPA agrees that such equipment may not be under the control of the affected facility and/or that altering such equipment to meet the monitoring requirements for PRDs is impractical. The EPA has, therefore, added an exception for "containers," as that term is defined at 40 CFR 63.7957, which encompasses movable equipment such as trucks, train cars, or barges. The EPA has followed the model of the OSWRO NESHAP in this regard. See 83 FR 3986 (January 29, 2018).

The EPA disagrees that it is appropriate to exempt PRDs that do not have the potential to emit 72 lbs./day or more of VOC based on the valve diameter from the PRD work practice. The commenter suggests the provisions should be adopted because the exemption is also found in the Petroleum Refineries NESHAP in 40 CFR 63.648(j)(5)(v). The exemption to which the commenter refers is refinery-specific and applies to "Group 1 process vents," as

defined in the Petroleum Refineries NESHAP.<sup>13</sup> The commenter did not provide information as to why an exemption for Refinery Group 1 process vents should be applied to remediation material management units (RMMUs). RMMUs are subject to Site Remediation NESHAP standards according to the criteria in 40 CFR 63.7881(c)(1), 40 CFR 63.7882(a)(2) and 40 CFR 63.7886(d). The differences in these emission points is reflected in the definition of the Refinery Group 1 process vent in contrast to the applicability criteria for RMMUs. The EPA does not find these two sets of units sufficiently similar to warrant applying this provision to RMMUs, given the wide variety of RMMUs that may be found subject to the Site Remediation NESHAP. The commenter also provided no context as to why 72 lbs./day is appropriate, given the different emission potential that determines affected facility status of the units on which the PRDs are found in Site Remediation. The 72 lbs./day provision for Petroleum Refineries NESHAP was set based on CAA section 112(d)(2) (*i.e.*, a MACT floor for petroleum refineries). The EPA does not have, and the commenter did not provide, data to support either a 72 lbs./day exemption or other value to apply as an exemption threshold for the Site Remediation source category. However, certain applicability criteria that the EPA finds appropriate to apply in the context of PRD activations in the site remediation context are identified at 40 CFR 63.7923(d).

*Comment:* One commenter expressed opposition to what the commenter referred to as “three exemptions” included in the proposed work practice standards for PRDs, asserting that the work practice standards must apply at all times. According to the commenter, a provision that allows sources to exceed the emissions standards two or three times every 3 years essentially allows non-continuous compliance with the CAA, which is inconsistent with

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<sup>13</sup> Group 1 miscellaneous process vent means a miscellaneous process vent for which the total organic HAP concentration is greater than or equal to 20 parts per million by volume, and the total VOC emissions are greater than or equal to 33 kilograms per day for existing sources and 6.8 kilograms per day for new sources at the outlet of the final recovery device (if any) and prior to any control device and prior to discharge to the atmosphere.

the Court precedent. Regarding force majeure events, the commenter stated that this provision is an exemption that simply provides new semantics for the rejected malfunction exemption and is equally unlawful. The commenter further explains that the concept of force majeure is from contracts law and does not fit with compliance with federal law. The commenter asserts that injecting contractual principles or negotiating regulations with a regulated party runs directly counter to the statutory test in which compliance is non-negotiable. According to the commenter, the EPA does not have the discretion to promulgate an exemption that allows EPA to decide what is a violation, or not, at a future time, as the Court has the authority to decide whether a violation has occurred warranting a penalty. This exemption, the commenter claims, places the burden on the government or citizen enforcer to prove both that excess emissions have occurred and that they did not occur during a force majeure event. The commenter also states that the exemption for PRDs with low potential to emit is unlawful because the CAA directs the EPA to establish limits that apply on a continuous basis for each HAP a source emits, regardless of the amount emitted. The commenter adds that it should be easy for PRDs to comply with the limits if they truly have low emissions.

*Response:* The EPA disagrees with the commenter that the proposed work practice is not a standard applicable to the affected source at all times. Under CAA section 112(h), work practices are a form of emissions standard applicable to affected units. Actuation events from PRDs that vent to the atmosphere are irregular in time, duration, amount, cause, and effect. Attempts to capture such emissions may be potentially dangerous to workers, the public, and the environment. The EPA's work practice standards require a series of preventive measures<sup>14</sup> and the use of diagnostic tools to prevent recurrence of such events, coupled with

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<sup>14</sup> See 84 FR 46153 (September 3, 2019) for a discussion of requirements under 40 CFR part 68, Chemical Accident Prevention Provisions for PRDs.

a clearly defined basis for enforcement action when there is a failure to prevent actuation event recurrence under the defined circumstances. This work practice standard represents the practice employed by the best performing sources and is the MACT floor. The MACT floor is not merely after-the-fact recordkeeping requirements to document PRD actuation events without penalty. The PRDs at affected facilities are subject to continuous monitoring, and, in addition to other potential bases for finding a violation as described in 40 CFR 63.7923(f), each PRD actuation is a violation if the cause is poor maintenance or operator error.

The EPA disagrees with the comments regarding force majeure events. Force majeure events, which result in pressure release actuation events, must be accounted for under 40 CFR 63.7923(c). The definition of force majeure narrows the scope of such events to natural disasters; acts of war or terrorism; loss of a utility external to the Site Remediation unit (*e.g.*, external power curtailment), excluding power curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the Site Remediation affected source that impacts the Site Remediation affected source's ability to operate. Therefore, a force majeure event would never be due to operator error or poor maintenance (see 40 CFR 63.7923(f)(1)) and must be absolutely beyond the power or ability of the source to prevent. We believe that the narrow scope of force majeure is such that a second event, from a single pressure relief device in a 3-year period would be highly unlikely to be due to the same force majeure event for the same equipment. (See 40 CFR 63.7923(f)(2)). Similarly, we believe that it is highly unlikely that in a 3-year period, three force majeure events of any type would occur for the same equipment. Finally, the source must satisfy the Administrator that the event was beyond the control of the owner or operator, because the decision to accept the claim of force majeure is solely within the discretion of the Administrator. Thus, the force majeure provisions are an intrinsic part of the work practice standard and are not as the commenter maintains an exemption from that standard.

The EPA disagrees with the comments regarding the exemption for certain types of PRDs identified in 40 CFR 63.7923(e). We modeled the applicability of the PRD provisions after the Petroleum Refinery rule, 40 CFR part 63, subpart CC. That “beyond-the-floor” analysis determined that it was not cost effective to include control of these PRDs as part of the work practice standard for PRDs, and we do not have information to conclude that this analysis would be any different for Site Remediation sources. However, these PRDs may be regulated under other provisions of the MACT. We note that, if the PRD is on any equipment subject to the equipment leaks requirements at 40 CFR 63.7920-7922, then the PRD is also subject to those same requirements, and owners and operators are still required to monitor the PRD after the release to verify the device is operating with an instrument reading of less than 500 ppm. Such PRDs are subject to repair requirements if a leak is found.

*Comment:* Several commenters requested clarification that the PRDs covered by the work practices are only those associated with the Site Remediation equipment leaks affected sources (*i.e.*, only PRDs that are in service for 300 or more hours per year and that contain or contact remediation material having a concentration of total HAP listed in Table 1 equal to or greater than 10 percent by weight).

*Response:* The EPA did not intend for the PRD actuation work practice requirements to only apply to PRDs in contact with remediation material with HAP content (for those HAPs listed in Table 1 to subpart GGGGG) equal to or greater than 10 percent by weight and that are in service for 300 hours per year or more. The PRD work practice also applies to PRDs protecting any affected units subject to this subpart (with the exception of containers), including RMMUs under 40 CFR 63.7882(a)(2). Thus, PRDs are subject to the PRD work practice if they are protecting process vents, tanks, surface impoundments, separators, transfer systems, or closed-vent systems and control devices—regardless of whether such units meet the 40 CFR 63.7882(a)(3) thresholds for equipment leak requirements. Note that

PRDs are not subject to the work practice standard if they are on containers as defined at 40 CFR 63.7957, which are subject to the requirements of 40 CFR 63.7900-7903. The PRD standards must work in conjunction with the emission limits for all such affected units to ensure that a standard applies at all times, including during malfunction periods. The exemption suggested by the commenter would leave PRD actuation events from certain affected units subject to no standards during malfunctions. Certain RMMUs (40 CFR 63.7886) may be exempt from control requirements based on the criteria in 40 CFR 63.7886(d). A PRD protecting equipment found to be exempt under 40 CFR 63.7886(d) would likewise be exempt from PRD standards, because the unit the PRD is protecting is not subject to control requirements.

The commenter is correct that a PRD as a member of the set of equipment subject to 40 CFR 63.7882(a)(3) would not be subject to LDAR requirements for “equipment leaks” if the PRD “at rest” (meaning not in actuation) meets either of the criteria in 40 CFR 63.7882(a)(3), that is, either: (1) the HAP content of the remediation material is less than 10 percent by weight; or (2) the equipment in question is used less than 300 hours per year. The applicable requirements to ensure a PRD has been repaired or re-sets properly after actuation are found in 40 CFR 63.7923(a)(1) and (2). The corresponding recordkeeping for such PRDs that are exempt from LDAR while at rest but subject to PRD work practices in activation are found at 40 CFR 63.7950(b)(11).

*Comment:* Several commenters remarked that the EPA should have provided a burden estimate for certain requirements. One commenter pointed out that the EPA did not include a burden estimate for implementation and reporting for the new PRD work practice requirements and submittal of the PRD Notice of Compliance Status. Several commenters stated that the EPA has assumed that sources have a system already in place that is capable of identifying and recording the time and duration of each pressure release from a PRD and of

notifying operators that a pressure release is occurring, and remarked that sources actually often do not have systems like this in place unless they are required by regulation; therefore, there will be a cost to implement this proposed requirement. One commenter noted that one company has five PRDs that vent to the atmosphere potentially subject to the proposed requirements, and that none of these currently have monitors in place. The commenter also said that some facilities with PRD monitors are not set up to communicate with the control room or are not capable of determining the duration of a release. One commenter estimated that the cost to install a new monitoring system will be approximately \$15,000 per PRD.

One commenter expressed that the EPA has not included time for facilities to develop procedures to estimate and report the amount of excess emissions when a deviation from the new requirements of 40 CFR 63.7951(b) occurs or to develop procedures for the new deviation recordkeeping requirements at 40 CFR 63.7952.

*Response:* The EPA disagrees that it failed to provide an estimate at proposal as to the cost and burdens associated with the work practice standard. However, we have adjusted that estimate as discussed below, and we have appropriately estimated the costs and burdens associated with implementation and reporting for the PRD work practice standard. At proposal, we assumed that any facility subject to the proposed PRD requirements would likely experience one PRD actuation event every 3 years, which would require an analysis of the event's cause. The EPA estimated an additional cost to implement the analysis of PRD actuation events for affected facilities that was reflected in the burden estimate at proposal. Upon consideration of the comment regarding the PRD Notification of Compliance Status, we have made a description of the PRD monitoring system part of the semiannual compliance report. It may have been unclear at proposal whether this one-time notification would be part of the submittal of the next semiannual report, for which we already have estimated a burden to complete. We have clarified that this notification is submitted with the semiannual



compliance report. The description of the monitoring system must be updated in subsequent reports only if changes are made. With respect to monitoring, the EPA has revised our burden estimate to include the cost of additional monitoring for sources that do not already have adequate monitoring for PRDs. We have estimated that half of the affected facilities must acquire between 1 and 5 monitors to meet the new requirement, at an estimated annualized cost of \$30,000 for the entire source category. For more information regarding the revised PRD monitoring burden estimate, see the memorandum, *Pressure Relief Device Monitoring Impacts for the Site Remediation Source Category*, available in the docket for this action.

Regarding deviation recordkeeping and reporting, we are providing additional time to develop emissions estimation and reporting procedures. The compliance date for existing affected sources for the revised SSM requirements other than General Provisions, 40 CFR 63.6(e) and (f)(1), is 180 days after the effective date of the standard. The requirements for electronic reporting requirements, the revised routine maintenance provisions, the operating and pressure management requirements for PRDs, and the revised requirements regarding bypasses and closure devices on pressure tanks is 180 days after the effective date of the standard.

4. What is the rationale for our final approach for the amendments pursuant to CAA sections 112(d)(2) and (3)?

To ensure a standard continuously applies during malfunctions that result in emissions from a PRD actuation event, we proposed work practices and other provisions for PRDs and bypass lines on closed vent systems. Based on comments received on the proposed provisions, we have revised the proposed work practice and associated monitoring requirements for PRDs. For the reasons provided in the responses to comments above, we have revised the proposed PRD provisions to exclude PRDs on containers from the PRD work practice standards and monitoring requirements and added language to 40 CFR 63.7882

to help clarify when a PRD is subject to equipment leak requirements and when it is subject to the PRD actuation event work practice requirements. Additionally, based on information provided by commenters, we have revised the economic analysis for the adoption of the proposed PRD monitoring requirements to reflect the purchase of monitoring equipment for some facilities rather than assuming all facilities already have adequate monitoring systems.

*D. Other Issues and Changes Made to the Site Remediation NESHAP*

1. Standards for Inorganic and Metal HAP Emissions

*a. What did we propose for inorganic and metal HAP emissions?*

In the May 13, 2016, proposal on reconsideration, the EPA stated that it would consider the issue of regulating metals and inorganic HAP emissions during the risk review (81 FR 29824). In the September 3, 2019, proposal, the EPA proposed to not set standards for metals and inorganic HAP from Site Remediation sources subject to the Site Remediation NESHAP because the Agency did not have data indicating that site remediation sources subject to the rule emit these pollutants. The EPA requested data demonstrating whether or not any affected Site Remediation sources emit inorganic or metal HAP.

*b. How did the decision regarding inorganic and metal HAP emissions change since proposal?*

In this final action, we have not made any changes to the proposed decision related to inorganic HAP and metal emissions standards.

*c. What key comments did we receive regarding inorganic and metal HAP, and what are our responses?*

*Comment:* One commenter observed that of over 200 Site Remediations in the country, the EPA found data for only six facilities. The commenter claimed that the EPA has nearly complete ignorance about actual Site Remediation emissions due to a failure by the EPA to collect the necessary data and asserts that claiming a lack of data without adequate

enquiry does not excuse the Agency from the requirements of the CAA to set emission standards for each HAP a source category emits. The commenter added that data for the source category, including exempt facilities, clearly shows that Site Remediations do emit specific and substantial quantities of inorganic and metal HAP, citing EPA's residual risk assessments in the docket at proposal. In contrast, several other commenters observed that the risk assessment and the EPA's data for this source category do not demonstrate that inorganic HAP and HAP metals are emitted from affected facilities and agree with the EPA's decision not to set standards for these pollutants. Two of these commenters also note that metals are the HAP driving risks; however, this is an assumption of the model plant approach employed in conducting the risk assessment. The commenters stated that these HAP are likely not emitted, and the actual risks are likely much lower than the EPA estimates.

*Response:* The NEI is the basis for establishing emission profiles for the Site Remediation source category and many EPA residual RTRs performed or are in progress within the Agency. The NEI is a comprehensive national database operated by the regulated community, state agencies, and the EPA to have data available for research and analysis, public information, and rulemaking. In the case of the Site Remediation RTR, to perform the risk assessment, the EPA used data submissions from approximately 220 facilities (102 affected facilities and 118 exempt facilities) that submitted over 55,000 records of pollutant emissions for over 4,000 emission units at the entire facilities (*i.e.*, not just units subject to the Site Remediation NESHAP). The NEI provides the best information available to the EPA regarding emissions from the Site Remediation source category.

Of the affected sources, the EPA did not find any affected facilities that reported Site Remediation emissions of metals and found only one facility that emitted any other inorganic HAP, which was asbestos. Upon further investigation of the asbestos emissions at this facility, the EPA discovered that the Site Remediation at this facility is subject to other rules

applicable to asbestos cleanups, including 40 CFR part 61, subpart M, the Asbestos NESHAP. The EPA has determined that since the asbestos emissions are already regulated by another NESHAP in this instance, it is not necessary to regulate those emissions separately in the Site Remediation NESHAP.

The EPA disagrees with the commenter's assertion that exempt facilities emit substantial quantities of inorganic HAP and metals. The emissions reported in the NEI for exempt facilities shows a total of 0.04 tpy of HAP metal emissions, all of which are from one facility, and 1.3 tpy of other inorganic HAP emissions, with 97 percent of these emissions from one facility. Thus, while some exempt facilities emit limited quantities of metal and inorganic HAP, the nature of Site Remediations, which are highly site-specific and vary widely in remediation materials treated, treatment methods and equipment, and emissions, does not suggest that emissions of metal and inorganic HAP are common in Site Remediations, are emitted in large quantities, or would be expected from affected facilities. Therefore, without further evidence to support the existence of metal or inorganic HAP emission from affected facilities, the EPA has determined it is not necessary to develop emissions standards for these pollutants for this source category.

We agree with commenters that the risk assessment, which used a model approach to attribute emissions to the Site Remediation portion of a facility where the NEI did not include Site Remediation emissions, likely overstates the emissions of some HAP from the Site Remediation portions of the facilities. Where this is true, risk from those HAP would be overstated in the risk assessment results.

As we stated at proposal, to address the limited data on Site Remediation emissions for these 96 facilities, the EPA developed a model plant approach for its risk assessment. A model plant approach is commonly used in other EPA actions. The EPA developed a profile of Site Remediation emissions for each facility by applying an emissions factor based on

emissions from the entire facility, including its non-category emissions from primary processes. Some of these non-category emission sources emit metal and inorganic HAP, thus leading to an attribution of a fraction of those emissions at a facility to the Site Remediation category by virtue of the use of the emissions factor. Thus, the model plant data used for modeling risk reflect metal and inorganic emissions solely because they are emitted by *non-category* sources elsewhere in the facility. The tables in Residual Risk Assessment for Facilities Exempt from the Site Remediation Source Category in Support of the Risk and Technology Review 2019 Proposed Rule (see Docket ID Item No. EPA-HQ-OAR-2018-0833-0028, p. 37-43) cited by the commenter do not specifically distinguish which compounds cited by the commenter are facility-wide non-category emissions adapted to the model plant and therefore not actual emissions from site remediation activity, from those pollutants emitted by site remediation activity. With the exception of HCl, the compounds cited by the commenter are facility-wide non-category emissions, and not emitted by site remediation activity. See section IV. A.3 of this preamble for our discussion on HCl. The commenter's assertion that data for the source category shows that site remediations emit specific and substantial quantities of inorganic and metal HAP is not actually supported by the data cited by the commenter.

*d. What is the rationale for our final decision regarding inorganic and metal HAP?*

For the reasons provided above and in the preamble for the proposed rule, we are finalizing the proposed decision to not set standards for metals and inorganic HAP from Site Remediation sources.

2. SSM

*a. What did we propose for SSM?*

We proposed amendments to the Site Remediation NESHAP to remove or revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times.

*b. How did the amendments regarding SSM change since proposal?*

For SSM, the Site Remediation NESHAP at 40 CFR 63.7925(b)(1) allows a facility to bypass control devices for up to 240 hours per year to perform planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the control device is shut down. To ensure that emissions standards apply at all times, we proposed to revise 40 CFR 63.7925(b)(1) to require the control device to be operating whenever gases or vapors containing HAP are vented through the closed-vent system to the control device. Based on comments received regarding these requirements, we have revised these proposed requirements as they apply to storage tanks. The revised requirements will allow a facility to bypass control devices on storage tanks for up to 240 hours per year to perform planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the control device is shut down, and they are restricted from filling the tank for those 240 hours. More information concerning SSM is in the preamble to the proposed rule (84 FR 46161; September 3, 2019). We also are clarifying the compliance dates for changes in the SSM provisions. See section III.F of this preamble for compliance dates.

*c. What key comments did we receive regarding SSM, and what are our responses?*

We received several comments regarding SSM. We received one comment that HAP concentrations may be higher in remediation material at the startup of remediation activities, one comment that the removal of the SSM exemption is not necessary to be consistent with the *Sierra Club vs. EPA* decision, and one comment generally supporting the proposed SSM revisions. One commenter generally supported the revisions but opposed what they

characterized as “exemptions” provided for PRDs during process malfunctions. Other commenters disagreed with the proposed changes related to periods of planned routine maintenance in 40 CFR 63.7925(b)(1) as they would affect tanks. Our responses to these comments can be found in the Response to Comments document in the docket. In addition to comments on SSM, we also received comment on the topic of periods for planned routine maintenance. A summary of these comments and our response is below.

*Comment:* Several commenters requested that the EPA retain an allowance for maintenance of control devices for tanks and add the work practice to the Site Remediation NESHAP that was finalized in the Amino and Phenolic Resins (APR) NESHAP RTR Reconsideration in October 2018. The commenters explained that this work practice allows closed vent systems on tanks to be bypassed for up to 240 hours per year for routine maintenance but prohibits sources from increasing the level of material in the tank during that time to minimize emissions by ensuring no working losses occur. Another commenter requested that the EPA retain the current routine maintenance provision that allows all closed-vent system or control devices to be bypassed for up to 240 hours per year to perform routine maintenance. This commenter stated that the EPA has not provided any justification or analysis of the costs or emissions impact associated with the proposed change.

*Response:* In the proposed rule, we removed the exemption from emissions standards for periods of SSM in accordance with a decision of the Court, *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008), cert. denied, 130 S. Ct. 1735 (U.S. 2010). This decision stated that the EPA must provide standards that are in place at all times, even during periods of SSM. Thus, we also removed the provision at 40 CFR 63.7925(b)(1) that allowed a control device to be bypassed for up to 240 hours per year for the performance of planned routine maintenance of the closed vent system or control device (*i.e.*, 240-hour routine maintenance exemption). As a

result, the emissions limits, including those for tanks, in the proposed revised Site Remediation NESHAP would apply at all times.

While emissions from most equipment can be eliminated completely during routine maintenance of a control device, simply by not operating the process during those times, the same is not true for a tank. For a fixed roof tank complying with the NESHAP by routing emissions through a closed vent system to a control device, the stored material in the tank will continue to emit volatile compounds when the control device is not operating. The only ways for these tanks to avoid such emissions are to empty and degas the tank prior to the maintenance activity. It is possible that emptying and degassing a tank could result in greater emissions than would result from emissions from the tank during a 240-hour period. At proposal, we did not consider this emissions potential. Taking this factor into account, we decided to examine whether separate MACT standards should be established for periods of planned routine maintenance of the emission control system for the vent on a fixed roof tank at a new or existing source.

We began our examination by reviewing the title V permits for each facility subject to the Site Remediation NESHAP. In this review, we searched for facilities that had tanks subject to the emissions standards of the Site Remediation NESHAP and for any permit requirements pertaining to periods of routine maintenance of a control device for a tank. From this review, several facilities were found to have tanks subject to the Site Remediation NESHAP emission standards. While the current provisions of the Site Remediation NESHAP minimize emissions by limiting the duration of the bypass of a control device for planned routine maintenance to 240 hours per year, no additional permit conditions were found for these facilities for periods of time when the tank control device was not operating. We also reviewed other NESHAP to examine the requirements that apply to similar tanks. From the review of these NESHAP, we found that the Hazardous Organic NESHAP (HON) and



several other NESHAP, including, but not limited to, those for Group I Polymers and Resins, Group IV Polymers and Resins, OSWRO, Pharmaceuticals Production, and Pesticide Active Ingredient Production with similar vapor pressure and threshold capacities have provisions that minimize HAP emissions during periods of planned routine maintenance. These provisions minimize HAP emissions by limiting the duration of planned routine maintenance to 240 hours per year. The Pharmaceuticals Production and Pesticide Active Ingredient Production NESHAP also allow a facility to request an extension of up to an additional 120 hours per year on the condition that no material is added to the tank during such requested extension period. The Amino and Phenolic Resins NESHAP includes the 240-hour provision described above and also prohibits sources from increasing the level of material in tanks during that time to minimize emissions. With these provisions, fixed roof tanks' emissions are limited to breathing losses, and the tanks do not need to be emptied and degassed to perform routine maintenance. Based on our review of these permits and NESHAP, we have determined that the MACT floor level of control for fixed roof tank vents at existing Site Remediation sources is the minimization of emissions by limiting the duration of planned routine maintenance periods in which the control device may be bypassed to 240 hours per year. Also based on this review, we identified one above-the-floor option, which is to add a work practice to prohibit the addition of material to the tank during the planned routine maintenance period when the tank control device is bypassed.<sup>15</sup>

We evaluated the impacts of the identified beyond-the-floor control option. We estimate that there are one to 10 facilities in the category that would need to control one or more tanks during periods when the primary emission control system is undergoing planned routine maintenance. We have assumed an equal distribution of one to five tanks at 10

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<sup>15</sup> *Impacts Associated with the Routine Maintenance Provisions for Storage Tanks in the Site Remediation Source Category*. Memorandum from Lesley Stobert, SC&A, to Matt Witosky, available in the docket for this action, Docket ID No. EPA HQ-OAR-2018-0833.

facilities, for a total of 30 tanks in the source category. To comply with the work practice of not adding material to the tank during planned routine maintenance periods when the tank control device is bypassed, we anticipate no additional equipment would be needed and no additional costs would be incurred. We estimate this option would reduce emissions by up to 76 lbs./year per tank and 2,280 lbs./year (1.1 tpy) for the source category (*i.e.*, 30 tanks).

Based on our analysis, the identified beyond-the-floor option is reasonable, given the level of HAP emissions reduction that would be achieved with this work practice and the absence of additional costs. Accordingly, we are revising the Site Remediation MACT standards to allow owners or operators of fixed roof vessels at new and existing affected Site Remediation facilities to perform planned routine maintenance of the emission control system for up to 240 hours per year, provided there are no working losses from the tank during that time.

This work practice standard is being established in accordance with CAA section 112(h). We note that the tank requirements in this rule were originally promulgated as CAA section 112(h) standards, which established two control options. One option is for the installation of a floating roof pursuant to 40 CFR part 63, subpart WW. This option is a combination of design, equipment, work practice, and operational standards. The other option is to install a conveyance system (pursuant to 40 CFR part 63, subpart DD) and route the emissions to a control device that achieves a 95-percent reduction in HAP emissions or that achieves a specific outlet HAP concentration. This second option is a combination of design standards, equipment standards, operational standards, and a percent reduction or outlet concentration. See the preamble to the original rulemaking for 40 CFR part 63, subpart GGGGG at 67 FR 49398 (July 30, 2002). The work practice requirement added in this action also fulfills the purposes of section 112(h)(1) of the CAA, which calls on the Administrator to include requirements in work practice standards sufficient to assure the proper operation and

maintenance of the design or equipment. The added work practice standard allows for the planned routine maintenance of the control device and minimizes emissions during such periods of planned routine maintenance, consistent with the requirements of CAA section 112(h)(1) by eliminating working losses during planned routine maintenance of the control device. For breathing losses, we have determined that it is not practicable due to technological and economic limitations, to measure these emissions during periods of planned routine maintenance to establish a numeric limit based upon the best performing sources. The breathing losses during the planned routine maintenance of the control system are highly dependent on the volume of the vapor space and the weather conditions during that time. Specialized flow meters (such as mass flow meters) would likely be needed in order to accurately measure any flow during these variable, no-to-low flow conditions. Measurement costs for these times would be economically impracticable, particularly in light of the small quantity of emissions. In addition, we are not aware of any measurement of breathing loss HAP emissions from a fixed roof storage vessel in the field.

*d. What is the rationale for our final amendments regarding SSM?*

With one exception, we are finalizing the provisions for periods of SSM provisions as proposed. The SSM-related provision regarding planned routine maintenance of control systems for storage tanks has been revised since proposal based on consideration of comments received during the public comment period. As explained in the comment response above in section 2.c, we reviewed available Site Remediation permits and the conditions of other NESHAP with similar provisions, and we determined that it is appropriate to adopt a work practice standard to allow owners or operators of fixed roof vessels at new and existing affected Site Remediation facilities to perform planned routine maintenance of the emission control system for up to 240 hours per year, provided there are no working losses from the tank during that time.

### 3. Electronic Reporting

#### *a. What did we propose for electronic reporting?*

As stated in the preamble to the proposed rule, to facilitate the demonstration and determination of compliance and simplify data entry, the EPA proposed to require owners and operators of Site Remediation facilities to submit electronic copies of required performance test reports, performance evaluation reports, and semi-annual compliance reports through the EPA's CDX using CEDRI. The EPA identified at proposal two broad circumstances in which electronic reporting extensions may be provided. These situations include outages of the EPA's CDX or CEDRI and force majeure events.

Additionally, for semi-annual summary compliance reports, the proposed rule required that owners and operators use a spreadsheet template to submit information to CEDRI. The EPA provided a draft version of the template for this report in the docket for the proposed rulemaking and requested comment on the content, layout, and overall design of the template.

#### *b. How did the amendments regarding electronic reporting change since proposal?*

Regarding electronic reporting, the proposed requirements to submit electronic copies of required performance test reports, performance evaluation reports, and semi-annual compliance reports have not changed. However, we have made a few corrections and clarifications to the draft spreadsheet template provided at proposal for use in submitting semi-annual summary compliance reports to CEDRI.

#### *c. What key comments did we receive regarding electronic reporting, and what are our responses?*

*Comment:* One commenter supported the EPA's proposal for electronic reporting but does not support the proposed reporting exemption provisions, which the commenter noted the EPA describes as "extensions," for CEDRI outages or force majeure events. The

commenter stated that the provisions do not set a new firm deadline to submit the required report or a deadline to request an extension of the reporting deadline, and the EPA must set a deadline, such as 10 days. The commenter asserted that this leads to a broad and vague mechanism by which a facility could evade reporting and compliance with the emissions standards. The commenter stated that by not including a new deadline, the provision does not provide for an extension, but rather provides an exemption from the reporting requirements and potentially from meeting the emissions standards. Additionally, the commenter remarked that the EPA did not provide a reasoned basis for this provision, and it appears there is no evidence that either type of event has caused any problems with electronic reporting in the past.

*Response:* The EPA notes that there is no exception or exemption to reporting, only a method for requesting an extension of the reporting deadline. There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a Hurricane Katrina scale event may delay electronic reporting much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to access electronically stored data or submit reports electronically. The Administrator will be the most knowledgeable on the events leading to the request for extension and will assess whether an extension is appropriate, and, if so, on a reasonable length. The Administrator may even request that the report be sent in hardcopy until electronic reporting can be resumed. While no new fixed duration deadline is set, the regulation does require that the report be submitted electronically as soon as possible after the outage is resolved or after the force majeure event occurs. For these reasons, the EPA is not adding a firm deadline for reporting when the Administrator

accepts a claim of force majeure or EPA system outage and instead leaves the deadline for the extension to the discretion of the Administrator.

*d. What is the rationale for our final amendments regarding electronic reporting?*

We are finalizing the proposed provisions regarding electronic reporting, however, the final spreadsheet template to be used in submitting semi-annual summary compliance reports to CEDRI has been revised based on comments received during the public comment period.

4. Open-Ended Valves and Lines

*a. What did we propose for OELs?*

We proposed to add a paragraph to 40 CFR 63.7920(b) to clarify what “seal the open end” means for OELs under the Site Remediation NESHAP. This clarification was intended to reduce uncertainty for the owner or operator as to whether compliance is being achieved. The proposed clarification explained that, for the purpose of complying with the requirements of 40 CFR 63.1014(b)(1) of 40 CFR part 63, subpart TT or 40 CFR 63.1033(b)(1) of subpart UU, as applicable, Site Remediation OELs are “sealed” by the cap, blind flange, plug or second valve when instrument monitoring of the OELs conducted according to EPA Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

We also proposed that OELs that are in an emergency shutdown system, and which are designed to open automatically, be equipped with either a flow indicator or a seal or locking device since 40 CFR part 63, subparts TT and UU exempt these OELs from the requirements to be equipped with a cap, blind flange, plug, or second valve that seals the open end. Additionally, we proposed recordkeeping and reporting requirements for these OELs.

*b. How did the amendments regarding OELs change since proposal?*

The EPA is not finalizing the proposed provisions related to OELs. These requirements include those of proposed 40 CFR 63.7920(b)(3)(i) that were intended to clarify

what “seal the open end” means for OELs; the proposed requirements of 40 CFR 63.7920(b)(3)(ii), which specified that certain OELs in an emergency shutdown system be equipped with either a flow indicator or a seal or locking device; and the related proposed recordkeeping and reporting requirements for these OELs.

*c. What key comments did we receive regarding OELs, and what are our responses?*

*Comment:* Several commenters asserted that the proposal to amend the rule to clarify that open-ended valves and lines are only sealed if an EPA Method 21 instrument reading is less than 500 ppm is inconsistent with other equipment leak rulemakings under 40 CFR parts 60 and 63. The commenters oppose the EPA’s proposal to clarify what “seal the open end” means for open-ended valves and lines, with one commenter noting that with the low pressure piping in Site Remediation equipment, leaks from caps or plugs are minimal, and the existing requirements are sufficient. Another commenter stated that this proposed change would add new, costly, and burdensome work practice requirements, which are not discussed in the preamble or the docket. The commenters also claimed that this clarification calls for demonstrating <500 ppm leakage by monitoring, without changing the requirement to have the open-ended line capped or plugged and without specifying any specific monitoring requirements. Further, one commenter remarked that the requirement to cap OELs was never an emissions standard but has always been considered a work practice in the form of an equipment standard. By establishing this equipment standard, the commenter said the EPA expressly rejected the idea that a capped open-ended line should be treated as a potentially leaking component that should be subject to an LDAR-like periodic leak detection requirement. The commenter remarked that imposing an emissions standard would transform the work practice into a numeric emissions limitation. Commenters also stated that by claiming this change is only a clarification of current requirements, the EPA has attempted to bypass the need to cite a CAA authorization for this change to the standard or meet the

process requirements associated with such a change, including providing emission reduction, cost, and burden estimates in the record. These commenters asserted that the EPA must show that imposing a new 500 ppm emissions limit is justified, including an assessment of costs and an explanation of how the costs are reasonable in light of the expected emissions reductions. In additional remarks on the topic, some commenters noted that proposed monitoring of OELs was not finalized for 40 CFR part 60, subparts VV or VVa due to the low-cost effectiveness of the requirements in relation to VOC emissions, which would likely have been even less cost effective when considering only HAP. In addition, one commenter provided historical information regarding OELs in which the EPA did not require LDAR and only require equipment standards for subpart VV and subpart H of part 63 (the HON rule). Several commenters stated that if additional OEL requirements can be shown to be justified, the requirements should take a traditional equipment leak approach in which monitoring is performed and that a reading above a certain level, such as 500 ppm, is an action level for repair rather than a violation. One commenter added that in this approach, a missing OEL cap or plug would not be a deviation unless a reading determines that a leak above the defined threshold is occurring.

Some commenters added that this “clarification” in the Site Remediation NESHAP would appear to be a clarification to all equipment leak rules and permits containing similar language. The commenters noted that this proposal does not notify other industries subject to 40 CFR part 63, subparts TT and UU of this change. In order to impose this new standard, one commenter stated that the EPA should identify the CAA authority for this action, propose amendments to all rules referencing 40 CFR subparts TT and UU (or propose amendments to subparts TT and UU, instead) and provide cost burden and emission impact estimates for this change for all impacted rules.



*Response:* The EPA disagrees that the proposal changed the current requirements, which consist of an equipment standard to equip the OEL with a cap, blind flange, plug, or second valve and an operational standard that the open end is “sealed” by that equipment at all times, except during operations requiring process fluid flow or during maintenance. See 40 CFR 63.1014(b)(1) and 40 CFR 63.1033(b)(1). As stated in the preamble to the proposed rule (see 84 FR 46165; September 3, 2019), the purpose of the proposed definition for “sealed” was intended to provide compliance certainty with the codified operational requirement that the OEL is “sealed” for the Site Remediation source category. However, upon review of these comments, the EPA agrees that additional consideration of the proposed change would be appropriate because there are multiple source categories that cross-reference the same equipment and operational requirements for OELs. We continue to believe that it is important that the standard to seal the OEL includes a clear mechanism for a source to demonstrate compliance with that requirement. Therefore, the EPA intends to continue to evaluate appropriate means of compliance certainty for OELs, including the term “sealed,” and is not finalizing any revisions to the OEL standards applicable to Site Remediation in this action. In the meantime, both the equipment standard that the OEL is equipped with a cap, blind flange, plug, or second valve, and the operational standard requiring that this equipment seal the open end of the valve or line, continue to apply.

*d. What is the rationale for our final decision regarding OELs?*

Considering comments received during the public comment period, the EPA is not finalizing the proposed provisions for OELs. These proposed provisions were intended to clarify what “seal the open end” means for OELs, would have required certain OELs in an emergency shutdown system to be equipped with a flow indicator or a seal or locking device, and would have required related recordkeeping and reporting requirements for these OELs.

Since OELs are present at many facilities, additional consideration of the proposed change is appropriate because there are multiple source categories that cross-reference the same equipment and operational requirements for OELs. We continue to believe it is important that the standard to seal the OEL includes a clear mechanism for a source to demonstrate compliance with that requirement. Therefore, the EPA intends to continue to evaluate appropriate means of compliance certainty for OELs, including the term “sealed,” and is not finalizing any revisions to the OEL standards applicable to Site Remediation in this action.

The EPA emission estimates are based on reported emissions, and we did not estimate HAP reductions from the proposed approach that we are not finalizing. For this reason, the decision to not finalize the OEL provisions has no impact on estimated emissions, risks, or decisions related to risk.

## 5. Technical Corrections

### *a. What technical corrections did we propose?*

We proposed several miscellaneous minor changes to improve the clarity of the Site Remediation NESHAP requirements. These proposed changes included:

- Adding citations in 40 CFR 63.14 to 40 CFR 63.7944 for the two following consensus standards: American Petroleum Institute (API) Publication 2517, Evaporative Loss From External Floating-Roof Tanks, and American Society for Testing and Materials (ASTM) Method D2879–83.
- Correcting citation errors. These include correcting the reference in 40 CFR 63.7942 to be 40 CFR 63.7(a)(3) rather than 40 CFR 63.7(3); correcting the reference in 40 CFR 63.7941 to be 40 CFR 7890(b) rather than 40 CFR 63.7980(a)(1)(i); and correcting the references in 40 CFR 63.7901(a) and (b)(1), and 40 CFR 63.7903(a) and (b) to be 40 CFR 63.7900 rather than 40 CFR 63.7990.

*b. How did the technical corrections change since proposal?*

We have not made any changes to the proposed technical corrections. However, we have added other technical corrections to the final rule. These include the following:

- The reporting requirement in 40 CFR 63.7951(b)(10)(i) did not specify which information should be reported with respect to a leak found under the PRD provisions. The EPA has specified that sources should report the number of times that a leak is detected during the reporting period.
- The reporting requirement in 40 CFR 63.7951(b)(10)(ii) was revised to clarify that the source is required to include a notation that the required monitoring was performed.
- The reporting requirement in 40 CFR 63.7951(b)(10)(iii)(B) was revised to require that the source report total HAP, rather than each HAP, to be consistent with the provisions in 40 CFR 63.7923(d).
- The reference to the requirement to submit a Notification of Compliance Status in 40 CFR 63.7951 at proposal has been revised for clarity.

*c. What is the rationale for our final technical corrections?*

These corrections have been made to correct errors, provide consistency of terms and add clarity to the rule.

*e. Other Comments*

*Comment:* A commenter recommended modifying 40 CFR 63.7885(b)(2) to address systems with process vents that are associated with gaseous systems, noting that the current regulation only provides a parts per million by weight (ppmw) value.

*Response:* In 40 CFR 63.7882, process vents are defined as the entire group of process vents associated with the in-situ and ex-situ remediation processes used at the site to remove, destroy, degrade, transform, or immobilize hazardous substances in the remediation material subject to remediation, which would include process vents associated with gaseous

systems. The standard in 40 CFR 63.7885(b)(2), average volatile organic hazardous air pollutants (VOHAP) concentration of the material, is on a mass-weighted basis, ppmw. This concentration is determined by collection and analysis of a sample by one of the methods listed in 40 CFR 63.694(b)(2)(ii). These methods determine, on a mass-weighted basis, the average VOHAP concentration in ppmw. As the methods to determine the average VOHAP concentration are in terms of mass, it is appropriate for the applicability provisions for process vents to be in the same terms. Therefore, we have not modified the requirements of 40 CFR 63.7885(b)(2).

## **V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted**

### *A. What are the affected facilities?*

We estimate that there are approximately 63 major source Site Remediation facilities. Based on available permit information, 33 facilities are expected to be subject to a limited set of the rule requirements under 40 CFR 63.7881(c) due to the low annual quantity of HAP contained in the remediation material excavated, extracted, pumped, or otherwise removed during the Site Remediations conducted at the facilities. These facilities are only required to prepare and maintain written documentation to support the determination that the total annual quantity of the HAP contained in the remediation material excavated, extracted, pumped, or otherwise removed at the facility is less than 1 megagram per year. They are not subject to any other emissions limits, work practices, monitoring, reporting, or recordkeeping requirements. While new Site Remediations are likely to be conducted in the future, we are currently not aware of any specific new Site Remediation facilities that will be subject to the Site Remediation NESHAP.

### *B. What are the air quality impacts?*

For equipment leaks, we are revising the equipment leak thresholds for pumps and valves for facilities complying with 40 CFR part 63, subpart TT. We estimate the HAP emission reduction for this change to be approximately 4.7 tpy. We anticipate a reduction of up to 1.1 tpy of HAP emissions from the revised requirements for planned routine maintenance, which eliminate the routine maintenance exemption for all affected units, and, for storage tank emissions control systems only, provide a work practice standard. We do not anticipate any HAP emission reduction from the requirement to electronically report the results of emissions testing. For the revisions to the MACT standards establishing a work practice standard for actuation of PRDs in remediation material service, we were not able to quantify the possible emission reductions, so none are included in our assessment of air quality impacts. Therefore, the total HAP emission reductions for the final rule revisions for the Site Remediation source category are estimated to be 5.8 tpy.

*C. What are the cost impacts?*

For equipment leaks, we are revising the equipment leak thresholds for pumps and valves for facilities complying with 40 CFR part 63, subpart TT. We estimate the nationwide capital costs to be \$26,000 and the annual costs to be \$10,000. We do not anticipate any quantifiable capital or annual costs for our requirements to electronically report the results of emissions testing. For the requirements to monitor PRDs, we estimate the nationwide capital costs to be \$162,000 and the annual costs to be \$29,500. For PRDs, we are also requiring facilities to conduct analyses of the causes of PRD pressure release actuation events and to implement corrective measures. We estimate the nationwide annualized costs for the analysis of actuation events to be \$13,000. This cost represents the estimated labor hours we anticipate would be required to determine the cause of a typical actuation event and to implement any corrective measure suggested by the analysis of the cause. We estimate an increase in reporting and recordkeeping associated with the requirements for equipment leaks and PRDs

of approximately \$7,000 per year nationwide. Therefore, the total capital costs for the regulatory changes being finalized in this action for the Site Remediation source category are approximately \$188,000, and the total annualized costs are approximately \$60,000.

*D. What are the economic impacts?*

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a rule. The total capital costs associated with this rule are estimated to be approximately \$188,000, and the estimated annualized cost is approximately \$60,000. We expect these costs to be borne by 30 facilities, with an average annualized cost of approximately \$2,000 per facility per year. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

*E. What are the benefits?*

We have estimated that this action will achieve HAP emissions reductions of 5.8 tpy. The revised standards will result in reductions in the actual and MACT-allowable emissions of HAP and may reduce the actual and potential cancer risks and noncancer health effects due to emissions of HAP from this source category, as discussed in the proposal preamble (See 84 FR 46158; September 3, 2019). We have not quantified the monetary benefits associated with these reductions; however, these avoided emissions will result in improvements in air quality and reduced negative health effects associated with exposure to air pollution from these emissions.

*F. What analysis of environmental justice did we conduct?*

The EPA is making environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. The EPA has established policies regarding the integration of environmental justice into the Agency's rulemaking efforts, including recommendations for the consideration and conduct of analyses to evaluate potential environmental justice concerns during the development of a rule.

Following these recommendations, to gain a better understanding of the source category and near source populations, the EPA conducted a demographic analysis for Site Remediation facilities to identify any overrepresentation of minority, low income, or indigenous populations. This analysis only gives an indication of the prevalence of sub-populations that may be exposed to air pollution from the sources; it does not identify the demographic characteristics of the most affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations. Additionally, the final changes to the NESHAP increase the level of environmental protection for all affected populations by reducing emissions from equipment leaks and from storage tanks during periods of planned routine maintenance of emissions control systems, and these revisions do not cause any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income, or indigenous populations. Further details concerning the demographic analysis are presented in the memorandum titled, *Risk and Technology Review - Analysis of Demographic Factors For Populations Living Near Site Remediation Source Category Operations*, a copy of which is available in the docket for this action.

*G. What analysis of children's environmental health did we conduct?*

As part of the health and risk assessments, as well as the demographic analysis conducted for this action, risks to infants and children were assessed. These analyses are documented in the *Residual Risk Assessment for the Site Remediation Source Category in Support of the March 2020 Risk and Technology Review Final Rule* and the *Risk and Technology Review - Analysis of Demographic Factors for Populations Living Near Site Remediation Source Category Operations* documents and are available in the docket for this action.

The results of the demographic analysis show that the average percentage of children 17 years and younger in close proximity to Site Remediation facilities is approximately the same as the percentage of the national population in this age group. Consistent with the EPA's Policy on Evaluating Health Risks to Children, we conducted inhalation and multipathway risk assessments for the Site Remediation source category, considering risk to infants and children.<sup>16</sup> Children are exposed to chemicals emitted to the atmosphere via two primary routes: either directly via inhalation, or indirectly via ingestion or dermal contact with various media that have been contaminated with the emitted chemicals. The EPA considers the possibility that children might be more sensitive than adults to toxic chemicals, including chemical carcinogens. For our inhalation risk assessment, several carcinogens emitted by facilities in this source category have a mutagenic mode of action. For these compounds, we applied the age-dependent adjustment factors (ADAF) described in the EPA's *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to*

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<sup>16</sup> *Policy on Evaluating Health Risks to Children*, U.S. Environmental Protection Agency, Washington, DC. May 2014. Available at [http://www2.epa.gov/sites/production/files/2014-05/documents/1995\\_childrens\\_health\\_policy\\_statement.pdf](http://www2.epa.gov/sites/production/files/2014-05/documents/1995_childrens_health_policy_statement.pdf).



*Carcinogens*.<sup>17</sup> This adjustment has the effect of increasing the estimated lifetime risks for these pollutants by a factor of 1.6. For one group of these chemicals with a mutagenic mode of action, polycyclic organic matter (POM), only a small fraction of the total emissions were reported as individual compounds. The EPA expresses carcinogenic potency of POM relative to the carcinogenic potency of benzo[a]pyrene, based on evidence that carcinogenic POM has the same mutagenic mode of action as does benzo[a]pyrene. The EPA's Science Policy Council recommends applying the ADAF to all carcinogenic compounds for which risk estimates are based on potency relative to benzo[a]pyrene. Accordingly, we have applied the ADAF to the benzo[a]pyrene-equivalent mass portion of all POM mixtures. For our multipathway screening assessment (*i.e.*, ingestion), we assessed risks for adults and various age groups of children. Children's exposures are expected to differ from exposures of adults due to differences in body weights, ingestion rates, dietary preferences and other factors. It is important, therefore, to evaluate the contribution of exposures during childhood to total lifetime risk using appropriate exposure factor values, applying ADAF as appropriate. The EPA developed a health protective exposure scenario whereby the receptor, at various lifestages, receives ingestion exposure via both the farm food chain and the fish ingestion pathways. The analysis revealed that fish ingestion is the dominant exposure pathway across all age groups for several pollutants, including POM. For POM, the farm food chain also is a major route of exposure, with beef and dairy contributing significantly to the lifetime average daily dose. Preliminary calculations of estimated dermal exposure and risk from these pollutants showed that the dermal exposure route is not a significant risk pathway relative to ingestion exposures. Based on the analyses described above, the EPA has determined that the

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<sup>17</sup> *Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens*. Risk Assessment Forum, U.S. Environmental Protection Agency, Washington, DC. EPA/630/R-03/003F. March 2005. Available at [http://www.epa.gov/raf/publications/pdfs/childrens\\_supplement\\_final.pdf](http://www.epa.gov/raf/publications/pdfs/childrens_supplement_final.pdf).

changes to this rule, which will reduce emissions of HAP by over 5 tpy, will lead to reduced risk to children and infants.

## VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

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

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

### *C. Paperwork Reduction Act (PRA)*

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2062.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The information requirements in this rulemaking are based on the notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These notifications, reports, and records are essential in determining compliance, and are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of

confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

*Respondents/affected entities:* Unlike a specific industry sector or type of business, the respondents potentially affected by this ICR cannot be easily or definitively identified.

Potentially, the Site Remediation rule may be applicable to any type of business or facility at which a Site Remediation is conducted to clean up media contaminated with organic HAP when the remediation activities are performed, the authority under which the remediation activities are performed, and the magnitude of the HAP in the remediation material meets the applicability criteria specified in the rule. A Site Remediation that is subject to this rule potentially may be conducted at any type of privately-owned or government-owned facility at which contamination has occurred due to past events or current activities at the facility. For Site Remediation performed at sites where the facility has been abandoned and there is no owner, a government agency may have responsibility for the cleanup.

*Respondent's obligation to respond:* Mandatory (42 U.S.C. 7414).

*Estimated number of respondents:* 30 total for the source category. These facilities are already respondents and no facilities are expected to become respondents as a result of this action.

*Frequency of response:* Semiannual.

*Total estimated burden:* 19,700 total hours (per year) for the source category, of which 310 hours are estimated as a result of this action. Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* The total estimated cost of the rule is \$1.55 million (per year) for the source category. This includes \$288,000 total annualized capital or operation and maintenance costs. We estimate that \$188,000 of the \$288,000 in total annualized capital or operation and maintenance costs is a result of this action. Recordkeeping and reporting costs

of approximately \$20,000 estimated as a result of this action are included in the \$1.55 million in total costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

*D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are chemical and refining companies. The Agency has determined that two small entities, representing approximately 7 percent of the total number of entities subject to the rule, may experience an impact of less than 0.1 percent of revenues. Details of this analysis are presented in the docket for this action (Docket ID No. EPA-HQ-OAR-2018-0833).

*E. Unfunded Mandates Reform Act (UMRA)*

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

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). There are no Site Remediation facilities that are owned or operated by tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the *Residual Risk Assessment for the Site Remediation Source Category in Support of the 2020 Risk and Technology Review Final Rule* document, which is available in the docket for this action, and are discussed in sections III.A and IV.A of this preamble.

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

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

*J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51*

This action involves technical standards. The EPA is formalizing the incorporation of two technical standards that were included in the October 2003 rule for which the EPA had previously not formally requested the Office of the Federal Register to include in 40 CFR 63.14 with a reference back to the sections in 40 CFR part 63, subpart GGGGG. These two standards were already incorporated in 40 CFR 63.14 and were formally requested for other rules. These standards are API Publication 2517, "Evaporative Loss from External Floating-Roof Tanks," Third Edition, February 1989, and ASTM D2879-83, "Standard Method for Vapor Pressure- Temperature Relationship and Initial Decomposition Temperature of Liquids

by Isoteniscope.” Sources subject to the Site Remediation NESHAP must determine the average total VOHAP concentration of a remediation material using either direct measurement or by knowledge of the material. These methods may be used to determine the average VOHAP concentration of remediation material. These analyses are used to determine control requirements for compliance with applicable standards. While the API Publication 2517 is used to determine emissions from floating roof tanks, an important component in determining these emissions is the vapor pressure of the material stored in the tank. Therefore, this publication includes widely used methods for determining the maximum true vapor pressure of HAP in liquids stored at ambient temperature and is available to the public for purchase from the reseller IHS Markit Standards Store through their website at <https://global.ihs.com/>. The ASTM D2879–83 method is also used to determine the maximum true vapor pressure of HAP in liquids stored at ambient temperature, and it is available to the public for free viewing online in the Reading Room section on ASTM’s website at <https://www.astm.org/READINGLIBRARY/>. Hardcopies and printable versions are also available for purchase from ASTM. Additional information can be found at <http://www.api.org/> and <https://www.astm.org/Standard/standardsandpublications.html>.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income, or indigenous populations.

The results of the demographic analysis completed by the EPA are presented in the

memorandum titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Site Remediation Source Category Operations*, which is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2018-0833) and are discussed in section V.F of this preamble.

*L. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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

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

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
**Andrew R. Wheeler,**

*Administrator.*



For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

**PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR  
POLLUTANTS FOR SOURCE CATEGORIES**

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

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

2. Section 63.14 is amended by revising paragraphs (c)(1) and (h)(31) to read as follows:

**§63.14 Incorporations by reference.**

\* \* \* \* \*

(c) \* \* \*

(1) API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, IBR approved for §§63.111, 63.1402, 63.2406 and 63.7944.

NOTE 1 to paragraph (c)(1): API Publication 2517 available through reseller HIS Markit at <https://global.ihs.com/>

\* \* \* \* \*

(h) \* \* \*

(31) ASTM D2879-83, Standard Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, Approved November 28, 1983, IBR approved for §§63.111, 63.1402, 63.2406, 63.7944, and 63.12005.

\* \* \* \* \*

**Subpart GGGGG—National Emission Standards for Hazardous Air Pollutants: Site  
Remediation**

3. Section 63.7882 is amended by revising the introductory text to paragraphs (a) and adding paragraph (a)(4) to read as follows:

**§63.7882 What site remediation sources at my facility does this subpart affect?**

(a) This subpart applies to each new, reconstructed, or existing affected source for your Site Remediation as designated by paragraphs (a)(1) through (4) of this section.

\* \* \* \* \*

(4) *Pressure relief devices.* The affected source is any pressure relief device in remediation material service, as defined in §63.7957. Pressure relief devices meeting the specifications of paragraph (a)(3) of this section are also part of an equipment leaks affected source.

\* \* \* \* \*

4. Section 63.7883 is amended by revising paragraphs (a), the introductory text to paragraphs (b), (c), and (d), and adding paragraph (f) to read as follows:

**§63.7883 When do I have to comply with this subpart?**

(a) If you have an existing affected source, you must comply with each emission limitation, work practice standard, and operation and maintenance requirement in this subpart that applies to you no later than October 9, 2006, except as provided in paragraph (f) of this section.

(b) If you have a new affected source that manages remediation material other than a radioactive mixed waste as defined in §63.7957, then you must meet the compliance date specified in paragraph (b)(1) or (2) of this section, as applicable to your affected source, except as provided in paragraph (f) of this section.

\* \* \* \* \*

(c) If you have a new affected source that manages remediation material that is a radioactive mixed waste as defined in §63.7957, then you must meet the compliance date specified in paragraph (c)(1) or (2) of this section, as applicable to your affected source, except as provided in paragraph (f) of this section.

\* \* \* \* \*

(d) If your facility is an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP as defined in §63.2, then you must meet the compliance dates specified in paragraphs (d)(1) and (2) of this section, except as provided in paragraph (f) of this section.

\* \* \* \* \*

(f) If the affected source's initial startup date is on or before September 3, 2019, you must comply with the requirements specified in paragraphs (f)(1) through (5) of this section by the dates specified in those paragraphs. If the affected source's initial startup date is after September 3, 2019, you must comply with all of the applicable requirements of this subpart upon initial startup or **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, whichever is later.

(1) You must comply with the equipment leak requirements of §63.7920(b)(3), (d) and (e) on or before **[INSERT DATE ONE YEAR AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(2) You must comply with the pressure relief device requirements of §63.7923(a) on or before **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**.

(3) You must comply with the pressure relief device requirements of §63.7923(b) through (f) on or before **[INSERT DATE 18 MONTHS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(4) You must comply with the pressure tank closure device reporting and recordkeeping requirements of §63.7951(b)(11) and §63.7952(a)(7) on or before **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(5) You must comply with the electronic reporting requirements of §63.7951(e) through (h) on or before **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

5. Section 63.7895 is amended by revising paragraph (c) to read as follows:

**§63.7895 What emissions limitations and work practice standards must I meet for tanks?**

\* \* \* \* \*

(c) If you use Tank Level 1 controls, you must install and operate a fixed roof according to the requirements in §63.902, with the exceptions specified in paragraphs (c)(1) and (2) of this section. As an alternative to using this fixed roof, you may choose to use one of Tank Level 2 controls in paragraph (d) of this section.

(1) Where §63.902(c)(2) provides an exception for a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere, for any source for the purposes of this subpart, only a conservation vent is eligible for the exception after **[INSERT DATE 180 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. If your initial startup date is after September 3, 2019, the exception for a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device does not apply, with the exception of a conservation vent, for the purposes of this subpart after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(2) The provisions of §63.902(c)(3) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; for any source the provisions of §63.902(c)(3) do

not apply for the purposes of this subpart after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

\* \* \* \* \*

6. Section 63.7896 is amended by revising paragraphs (c) (1) and (3) and (f)(1) to read as follows:

**§63.7896 How do I demonstrate initial compliance with the emissions limitations and work practice standards for tanks?**

\* \* \* \* \*

(c) \* \* \*

(1) Each tank using Tank Level 1 controls is equipped with a fixed roof and closure devices according to the requirements in §63.902(b) and (c), with the exceptions specified in §63.7895(c)(1) and (2), and you have records documenting the design.

\* \* \* \* \*

(3) You will operate the fixed roof and closure devices according to the requirements in §63.902, with the exceptions specified in §63.7895(c)(1) and (2).

\* \* \* \* \*

(f) \* \* \*

(1) Each tank is equipped with a fixed roof and closure devices according to the requirements in §63.685(g), with the exceptions specified in §63.7895(c)(1) and (2), and you have records documenting the design.

\* \* \* \* \*

7. Section 63.7898 is amended by revising paragraph (c)(1) to read as follows:

**§63.7898 How do I demonstrate continuous compliance with the emissions limitations and**

**work practice standards for tanks?**

\* \* \* \* \*

(c) \* \* \*

(1) Operating and maintaining the fixed roof and closure devices according to the requirements in §63.902(c), with the exceptions specified in §63.7895(c)(1) and (2).

\* \* \* \* \*

8. Section 63.7900 is amended by revising paragraphs (b)(1) through (3), (c), and (d) to read as follows:

**§63.7900 What emissions limitations and work practice standards must I meet for containers?**

\* \* \* \* \*

(b) \* \* \*

(1) If the design capacity of your container is less than or equal to 0.46 m<sup>3</sup>, then you must use controls according to the standards for Container Level 1 controls as specified in §63.922. As an alternative, you may choose to use controls according to either of the standards for Container Level 2 controls as specified in §63.923. §63.922(d)(4) and (5) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.922(d)(4) and (5) do not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(2) If the design capacity of your container is greater than 0.46 m<sup>3</sup>, then you must use controls according to the standards for Container Level 2 controls as specified in §63.923 except as provided for in paragraph (b)(3) of this section. §63.923(d)(4) and (5) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.923(d)(4) and

(5) do not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(3) As an alternative to meeting the standards in paragraph (b)(2) of this section for containers with a capacity greater than 0.46 m<sup>3</sup>, if you determine that either of the conditions in paragraphs (b)(3)(i) or (ii) apply to the remediation material placed in your container, then you may use controls according to the standards for Container Level 1 controls as specified in §63.922. §63.922(d)(4) and (5) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.922(d)(4) and (5) do not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

\* \* \* \* \*

(c) At times when a container having a design capacity greater than 0.1 m<sup>3</sup> is used for treatment of a remediation material by a waste stabilization process as defined in §63.7957, you must control air emissions from the container during the process whenever the remediation material in the container is exposed to the atmosphere according to the standards for Container Level 3 controls as specified in §63.924. You must meet the emissions limitations and work practice standards in §63.7925 that apply to your closed vent system and control device.

§63.924(d) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.924(d) does not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(d) As an alternative to meeting the requirements in paragraph (b) of this section, you may choose to use controls on your container according to the standards for Container Level 3

controls as specified in §63.924. You must meet the emissions limitations and work practice standards in §63.7925 that apply to your closed vent system and control device. §63.924(d) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.924(d) does not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

\* \* \* \* \*

9. Section 63.7901 is amended by revising paragraphs (a), (b)(1), (c)(2) and (d)(3) to read as follows:

**§63.7901 How do I demonstrate initial compliance with the emissions limitations and work practice standards for containers?**

(a) You must demonstrate initial compliance with the emissions limitations and work practice standards in §63.7900 that apply to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section, as applicable to your containers.

\* \* \* \* \*

(b) \* \* \*

(1) You have determined the applicable container control levels specified in §63.7900 for the containers to be used for your Site Remediation.

(c) \* \* \*

(2) You will operate each container cover and closure device according to the requirements in §63.922(d), with the exceptions specified in §63.7900(b)(1).

(d) \* \* \*

(3) You will operate and maintain the container covers and closure devices according to the requirements in §63.923(d), with the exceptions specified in §63.7900(b)(2).



\* \* \* \* \*

10. Section 63.7903 is amended by revising paragraphs (a), (b), (c)(1) and (d)(2) to read as follows:

**§63.7903 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for containers?**

(a) You must demonstrate continuous compliance with the emissions limitations and work practice standards in §63.7900 applicable to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section.

(b) You must demonstrate continuous compliance with the requirement to determine the applicable container control level specified in §63.7900(b) for each affected tank by meeting the requirements in paragraphs (b)(1) through (3) of this section.

\* \* \* \* \*

(c) \* \* \*

(1) Operating and maintaining covers for each container according to the requirements in §63.922(d), with the exceptions specified in §63.7900(b)(1).

\* \* \* \* \*

(d) \* \* \*

(2) Operating and maintaining container covers according to the requirements in §63.923(d), with the exceptions specified in §63.7900(b)(2).

\* \* \* \* \*

11. Section 63.7905 is amended by revising paragraphs (b)(1) and (2) to read as follows:

**§63.7905 What emissions limitations or work practice standards must I meet for surface impoundments?**

\* \* \* \* \*

(b) \* \* \*

(1) Install and operate a floating membrane cover according to the requirements in §63.942. §63.942(c)(2) and (3) do not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.942(c)(2) and (3) do not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**; or

(2) Install and operate a cover vented through a closed vent system to a control device according to the requirements in §63.943. You must meet the emissions limitations and work practice standards in §63.7925 that apply to your closed vent system and control device. §63.943(c)(2) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.943(c)(2) does not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

\* \* \* \* \*

12. Section 63.7906 is amended by revising paragraphs (b)(2) and (c)(2) to read as follows:

**§63.7906 How do I demonstrate initial compliance with the emissions limitations or work practice standards for surface impoundments?**

\* \* \* \* \*

(b) \* \* \*

(2) You will operate the cover and closure devices according to the requirements in §63.942(c), with the exceptions specified in §63.7905(b)(1).

\* \* \* \* \*

(c) \* \* \*

(2) You will operate the cover and closure devices according to the requirements in §63.943(c), with the exceptions specified in §63.7905(b)(2).

\* \* \* \* \*

13. Section 63.7908 is amended by revising paragraphs (b)(1) and (c)(1) to read as follows:

**§63.7908 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for surface impoundments?**

\* \* \* \* \*

(b) \* \* \*

(1) Operating and maintaining the floating membrane cover and closure devices according to the requirements in §63.942(c), with the exceptions specified in §63.7905(b)(1).

\* \* \* \* \*

(c) \* \* \*

(1) Operating and maintaining the floating membrane cover and closure devices according to the requirements in §63.943(c), with the exceptions specified in §63.7905(b)(2).

\* \* \* \* \*

14. Section 63.7910 is amended by revising paragraphs (b)(1) through (3) to read as follows:

**§63.7910 What emissions limitations and work practice standards must I meet for separators?**

\* \* \* \* \*

(b) \* \* \*

(1) Install and operate a floating roof according to the requirements in §63.1043. For portions of the separator where it is infeasible to install and operate a floating roof, such as over

a weir mechanism, you must comply with the requirements specified in paragraph (b)(2) of this section. §63.1043(c)(2) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.1043(c)(2) does not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(2) Install and operate a fixed roof vented through a closed vent system to a control device according to the requirements in §63.1044. You must meet the emissions limitations and work practice standards in §63.7925 that apply to your closed vent system and control device. §63.1044(c)(2) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.1044(c)(2) does not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(3) Install and operate a pressurized separator according to the requirements in §63.1045. §63.1045(b)(3)(i) does not apply for the purposes of this subpart if your initial startup date is after September 3, 2019; §63.1045(b)(3)(i) does not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

\* \* \* \* \*

15. Section 63.7911 is amended by revising paragraphs (b)(2), (c)(2), and (d)(2) to read as follows:

**§63.7911 How do I demonstrate initial compliance with the emissions limitations and work practice standards for separators?**

\* \* \* \* \*

(b) \* \* \*

(2) You will operate the floating roof and closure devices according to the requirements in §63.1043(c), with the exceptions specified in §63.7910(b)(1).

(c) \* \* \*

(2) You will operate the fixed roof and its closure devices according to the requirements in §63.1042(c). §63.1042(c)(3) does not apply for the purposes of this subpart if your initial date is after September 3, 2019; §63.1042(c)(3) does not apply for the purposes of this subpart for any source after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

\* \* \* \* \*

(d) \* \* \*

(2) You will operate the pressurized separator as a closed system according to the requirements in §63.1045(b)(3), with the exceptions specified in §63.7910(b)(3).

16. Section 63.7912 is amended by revising paragraph (c) to read as follows:

**§63.7912 What are my inspection and monitoring requirements for separators?**

\* \* \* \* \*

(c) If you use a pressurized separator that operates as a closed system according to §63.7910(b)(3), you must visually inspect each pressurized separator and closure devices for defects at least annually to ensure they are operating according to the design requirements in §63.1045(b), with the exceptions specified in §63.7910(b)(3).

17. Section 63.7913 is amended by revising paragraphs (c)(1) and (d)(1) to read as follows:

**§63.7913 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for separators?**

\* \* \* \* \*

(c) \* \* \*

(1) Operating and maintaining the fixed roof and its closure devices according to the requirements in §63.1042, with the exceptions specified in §63.7911(c)(2).

\* \* \* \* \*

(d) \* \* \*

(1) Operating the pressurized separator at all times according to the requirements in §63.1045, with the exceptions specified in §63.7910(b)(3).

\* \* \* \* \*

18. Revise the undesignated center heading for §§63.7920 through 63.7922 to read as follows:

**Equipment Leaks and Pressure Relief Devices**

19. Section 63.7920 is amended by:

- a. Revising paragraph (b)(1);
- b. Adding paragraph (b)(3);
- c. Redesignating paragraph (d) as paragraph (f); and
- d. Adding new paragraphs (d) and (e) to read as follows:

**§63.7920 What emissions limitations and work practice standards must I meet for equipment leaks?**

\* \* \* \* \*

(b) \* \* \*

(1) Control equipment leaks according to all applicable requirements under 40 CFR part 63, subpart TT—National Emission Standards for Equipment Leaks—Control Level 1, with the differences noted in paragraph (b)(3) of this section for the purposes of this subpart; or

\* \* \* \* \*

(3)(i) For the purpose of complying with the requirements of §63.1006(b)(2), the instrument reading that defines a leak is 500 parts per million or greater.

(ii) For the purpose of complying with the requirements of §63.1007(b)(2), the instrument reading that defines a leak is 5,000 parts per million or greater for pumps handling polymerizing monomers; 2,000 parts per million or greater for pumps in food/medical service; and 1,000 parts per million or greater for all other pumps.

\* \* \* \* \*

(d) For the purposes of this subpart, the requirements of §63.7920(e) of this subpart apply rather than those of §63.1030 or of §63.1011, as applicable, for pressure relief devices in gas and vapor service. The requirements of §63.7920(e) of this subpart apply rather than those of §63.1029 or of §63.1010, as applicable, for pressure relief devices in liquid service.

(e) Operate each pressure relief device under normal operating conditions, as indicated by an instrument reading of less than 500 ppm above the background level as detected by the method specified in §63.1004(b) or §63.1023(b), as applicable.

20. Section 63.7923 is added to read as follows:

**§63.7923 What monitoring and work practice standards must I meet for pressure relief devices?**

(a) For each pressure relief device in remediation material service, you must comply with either paragraph (a)(1) or (2) of this section following a pressure release actuation event, as applicable.

(1) If the pressure relief device does not consist of or include a rupture disk, return the pressure relief device to the normal operating conditions specified in §63.7920(e) as soon as

practicable and conduct instrument monitoring by the method specified in §63.1004(b) or §63.1023(b), as applicable, no later than 5 calendar days after the pressure release device returns to remediation material service following a pressure release actuation event, except as provided in §63.1024(d) or of §63.1005(c), as applicable.

(2) If the pressure relief device consists of or includes a rupture disk, except as provided in §63.1024(d) or §63.1005(c), as applicable, install a replacement disk as soon as practicable but no later than 5 calendar days after the pressure release actuation event.

(b) Except for the pressure relief devices described in paragraph (e) of this section, you must comply with the requirements of paragraphs (c) and (d) of this section for each pressure relief device in remediation material service.

(c) Equip each pressure relief device in remediation material service with a device(s) or use a monitoring system sufficient to indicate a pressure release to the atmosphere. The device or monitoring system may be either specific to the pressure release device itself or may be associated with the process system or piping. Examples of these types of devices or monitoring systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, pressure monitor, or parametric monitoring system. The device(s) or monitoring systems must be capable of meeting the requirements specified in paragraphs (c)(1) through (3) of this section.

- (1) Identifying the pressure release;
- (2) Recording the time and duration of each pressure release; and
- (3) Notifying operators immediately that a pressure release is occurring.



(d) If any pressure relief device in remediation material service releases directly to the atmosphere as a result of a pressure release actuation event, follow the requirements of paragraphs (d)(1) through (6) of this section.

(1) Calculate the quantity of HAP listed in Table 1 of this subpart released during each pressure release actuation event. Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(2) Determine the total number of pressure release actuation events that occurred during the calendar year for each pressure relief device.

(3) Determine the total number of pressure release actuation events for each pressure relief device for which the analysis conducted as required by paragraph (d)(4) of this section concluded that the pressure release was due to a force majeure event, as defined in §63.7957.

(4) Complete an analysis to determine the source, nature and cause of each pressure release actuation event as soon as practicable, but no later than 45 days after a pressure release actuation event.

(5) Identify corrective measures to prevent future such pressure release actuation events as soon as practicable, but no later than 45 days after a pressure release actuation event.

(6) Implement the corrective measure(s) identified as required by paragraph (d)(5) of this section within 45 days of the pressure release actuation event or as soon thereafter as practicable. For corrective measures that cannot be fully implemented within 45 days following the pressure release actuation event, you must record the corrective measure(s) completed to date, and, for measure(s) not already completed, a schedule for implementation, including proposed

commencement and completion dates, no later than 45 days following the pressure release actuation event.

(e) The pressure relief devices listed in paragraphs (e)(1) through (6) are not subject to the requirements in paragraphs (c) or (d) of this section.

(1) Pressure relief devices designed and operated to route all pressure releases through a closed vent system to a drain system meeting the requirements of §§63.7915-63.7918, or to a fuel gas system, process or control device meeting the requirements of §§63.7925-63.7928.

(2) Pressure relief devices in heavy liquid service, as defined in §63.1001 or §63.1020, as applicable.

(3) Thermal expansion relief valves.

(4) Pilot-operated pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, to the fuel gas system, or to a drain system.

(5) Balanced bellows pressure relief devices where the primary release valve is routed through a closed vent system to a control device or back into the process, to the fuel gas system, or to a drain system.

(6) Pressure relief devices on containers, as defined in §63.7957.

(f) Except for the pressure relief devices described in paragraph (e) of this section, it is a violation of the requirements of paragraphs (c) and (d) of this section for any pressure relief device in remediation material service to release directly to the atmosphere as a result of a pressure release actuation event(s) described in paragraphs (f)(1) through (3) of this section.

(1) Any pressure release actuation event for which the cause of the event determined as required by paragraph (d)(4) of this section was determined to be operator error or poor maintenance.

(2) A second pressure release actuation event, not including force majeure events, from a single pressure relief device in a 3 calendar-year period for the same cause for the same equipment.

(3) A third pressure release actuation event, not including force majeure events, from a single pressure relief device in a 3 calendar-year period for any reason.

21. Section 63.7925 is amended by revising paragraph (b). The revision reads as follows:

**§63.7925 What emissions limitations and work practice standards must I meet for closed vent systems and control devices?**

\* \* \* \* \*

(b) You must comply with paragraph (b)(2) of this section, and paragraph (b)(1) of this section does not apply, if your initial startup date is after September 3, 2019. If your initial startup date was on or before September 3, 2019, you must comply with paragraphs (b)(1) or (2) of this section until **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and after that date, you must comply with paragraph (b)(2) of this section, and paragraph (b)(1) of this section does not apply.

(1) Whenever gases or vapors containing HAP are vented through the closed-vent system to the control device, the control device must be operating except at those times listed in either paragraph (b)(1)(i) or (ii) of this section.

(i) The control device may be bypassed for the purpose of performing planned routine maintenance of the closed-vent system or control device in situations when the routine

maintenance cannot be performed during periods that the emission point vented to the control device is shutdown. On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance must not exceed 240 hours per each calendar year.

(ii) The control device may be bypassed for the purpose of correcting a malfunction of the closed-vent system or control device. You must perform the adjustments or repairs necessary to correct the malfunction as soon as practicable after the malfunction is detected.

(2) Whenever gases or vapors containing HAP are vented through the closed-vent system to the control device, the control device must be operating, except that the control device on a tank may be bypassed for the purpose of performing planned routine maintenance of the control device. When the tank control device is bypassed, the owner or operator must comply with paragraphs (b)(2)(i) through (iii) of this section.

(i) The control device may only be bypassed when the planned routine maintenance cannot be performed during periods that tank emissions are vented to the control device.

(ii) On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance must not exceed 240 hours per each calendar year.

(iii) The level of material in the tank must not be increased during periods that the closed-vent system or control device is bypassed to perform planned routine maintenance.

\* \* \* \* \*

22. Section 63.7935 is amended by:

- a. Revising paragraphs (a) through (c), (e) and (f);
- b. Adding paragraphs (g)(4) and (5); and
- c. Revising paragraphs (h)(1) through (e) to read as follows:

**§63.7935 What are my general requirements for complying with this subpart?**

(a) If your initial startup was on or before September 3, 2019, you must be in compliance with the emissions limitations (including operating limits) and the work practice standards in this subpart at all times, except, until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, during periods of startup, shutdown, and malfunction. If your initial startup was after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources, after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must be in compliance with the emission limitations (including operating limits) and the work practice standards in this subpart at all times.

(b) If your initial startup was on or before September 3, 2019, then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in §63.6(e)(1)(i). If your initial startup was after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which

may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(c) If your initial startup date was on or before September 3, 2019, then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in §63.6(e)(3), and a SSMP is not required after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. No SSMP is required for any source for which the initial startup date is after September 3, 2019.

\* \* \* \* \*

(e) You must report each instance in which you did not meet each emissions limitation and each operating limit that applies to you. You must also report each instance in which you did not meet the requirements for work practice standards that apply to you. These instances are deviations from the emissions limitations and work practice standards in this subpart. These deviations must be reported according to the requirements in §63.7951.

(f) If your initial start date was on or before September 3, 2019, consistent with §§63.6(e) and 63.7(e)(1), then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with §63.6(e)(1). We will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in §63.6(e). If your initial startup was after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must

be in compliance with the emission limitations in this subpart at all times (unless a longer timeframe for compliance is expressly provided in this subpart), and we will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in §63.7935(a) and (b).

\* \* \* \* \*

(g) \* \* \*

(4) Continuous monitoring system (CMS) operation and maintenance requirements in accordance with §63.7945.

(5) CMS data collection in accordance with §63.7946.

(h) \* \* \*

(1) If your initial startup was on or before September 3, 2019, then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must address ongoing operation and maintenance (O&M) procedures in accordance with the general requirements of §63.8(c)(1), (3), (4)(ii), (7), and (8). If your initial startup was after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must address ongoing O&M procedures in accordance with the general requirements of §63.8(c)(1)(ii), (3), (4)(ii), (7), and (8).

(2) If your initial startup was on or before September 3, 2019, then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must address ongoing data quality assurance procedures in accordance with the general requirements of §63.8(d). If your initial startup was after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE**

**180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must address ongoing data quality assurance procedures in accordance with the general requirements of §63.8(d) except for the requirements related to startup, shutdown, and malfunction plans referenced in §63.8(d)(3). The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.*, superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under §63.8(d)(2).

(3) If your initial startup was on or before September 3, 2019, then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must address ongoing recordkeeping and reporting procedures in accordance with the general requirements of §63.10(c), (e)(1) and (e)(2)(i). If your initial startup was after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must address ongoing recordkeeping and reporting procedures in accordance with the general requirements of §63.10(c)(1) through (c)(14), and (e)(1) and (2)(i).

\* \* \* \* \*

23. Section 63.7941 is amended by revising paragraphs (b)(2) and (4) to read as follows:

**§63.7941 How do I conduct a performance test, design evaluation, or other type of initial compliance demonstration?**



\* \* \* \* \*

(b) \* \* \*

(2) If your initial startup date was on or before September 3, 2019, then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must conduct each performance test under representative conditions according to the requirements in §63.7(e)(1). If your initial startup date is after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE 180 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, you must conduct each performance test under conditions representative of normal operations. You may not conduct performance tests during periods of startup, shutdown, or malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

\* \* \* \* \*

(4) Follow the procedures in paragraphs (b)(4)(i) through (iii) of this section to determine compliance with the facility-wide total organic mass emissions rate in §63.7890(b).

\* \* \* \* \*

24. Section 63.7942 is amended to read as follows:

**§63.7942 When must I conduct subsequent performance tests?**

For non-flare control devices, you must conduct performance tests at any time the EPA requires you to according to §63.7(a)(3).

25. Section 63.7943 is amended by revising paragraph (d) to read as follows:

**§63.7943 How do I determine the average VOHAP concentration of my remediation material?**

\* \* \* \* \*

(d) In the event that you and we disagree on a determination using knowledge of the average total VOHAP concentration for a remediation material, then the results from a determination of VOHAP concentration using direct measurement by EPA Method 305 in 40 CFR part 60, appendix A, as specified in paragraph (b) of this section, will be used to determine compliance with the applicable requirements of this subpart. We may perform or require that you perform this determination using direct measurement.

\* \* \* \* \*

26. Section 63.7944 is amended by:

- a. In paragraph (b)(2)(ii), immediately before the end semicolon, add “(incorporated by reference, see § 63.14)”;
- b. In paragraph (b)(2)(iv), remove the words “Method 2879-83” and add, in their place, “D2879-83 (incorporated by reference, see § 63.14)”;
- c. Revising paragraph (d).

The revision to read as follows:

**§63.7944 How do I determine the maximum HAP vapor pressure of my remediation material?**

\* \* \* \* \*

(d) In the event that you and us disagree on a determination using knowledge of the maximum HAP vapor pressure of the remediation material, then the results from a determination

of maximum HAP vapor pressure using direct measurement by EPA Method 25E in 40 CFR part 60, appendix A, as specified in paragraph (b) of this section, will be used to determine compliance with the applicable requirements of this subpart. We may perform or require that you perform this determination using direct measurement.

\* \* \* \* \*

27. Section 63.7945 is amended by adding paragraph (d) to read as follows:

**§63.7945 What are my monitoring installation, operation, and maintenance requirements?**

\* \* \* \* \*

(d) Failure to meet the requirements of paragraphs (a)(1) through (4) of this section is a deviation and must be reported according to the requirements in §63.7951(b)(7).

28. Section 63.7951 is amended by:

- a. Adding paragraphs (a)(6) and (7);
- b. Revising paragraph (b)(4), (b)(7), (b)(7)(ii), (b)(8), (b)(8)(i), (b)(8)(iv), and (b)(8)(vi),
- d. Adding paragraphs (b)(10) and (11);
- e. Revising paragraph (c); and
- d. Adding paragraphs (e), (f), (g), and (h) to read as follows:

**§63.7951 What reports must I submit and when?**

(a) \* \* \*

(6) For pressure relief devices in remediation material service subject to the requirements of §63.7923, submit a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored, and a description of the alarms or other methods by which operators will be notified of a pressure release. If your

initial startup date was on or before September 3, 2019, then this information must be submitted with the next semi-annual periodic compliance report. If your initial startup date is after September 3, 2019, this information must be submitted in the first periodic compliance report. The information must be updated in subsequent reports if changes are made.

(7) Semi-annual compliance reports must be submitted according to paragraph (f) of this section.

\* \* \* \* \*

(b) \* \* \*

(4) If your initial startup date was on or before September 3, 2019, then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in §63.10(d)(5)(i). If your initial startup date is after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, an SSMP and the information in §63.10(d)(5)(i) is not required.

\* \* \* \* \*

(7) For each deviation from an emissions limitation (including an operating limit) that occurs at an affected source for which you are not using a continuous monitoring system (including a CPMS or CEMS) to comply with an emissions limitation or work practice standard required in this subpart, the compliance report must contain the information specified in paragraphs (b)(1) through (3) and (b)(7)(i) and (ii) of this section.

\* \* \* \* \*

(ii) Information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation. (8) For each deviation from an emissions limitation (including an operating limit) or work practice standard occurring at an affected source where you are using a continuous monitoring system (including a CPMS or CEMS) to comply with the emissions limitations or work practice standard in this subpart, you must include the information specified in paragraphs (b)(1) through (3) and (b)(8)(i) through (xi) of this section. (i) Information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

\* \* \* \* \*

(8) For each deviation from an emissions limitation (including an operating limit) or work practice standard occurring at an affected source where you are using a continuous monitoring system (including a CPMS or CEMS) to comply with the emissions limitations or work practice standard in this subpart, you must include the information specified in paragraphs (b)(1) through (3) and (b)(8)(i) through (xi) of this section.

(i) Information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

\* \* \* \* \*

(iv) For each deviation caused when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit), the report must include the daily average values of the monitored parameter, the applicable operating parameter limit, and the date and duration of the period that the deviation occurred. For each deviation caused by lack of monitoring data, the report must include the date and duration of period when the monitoring data were not collected and the reason why the data were not collected.

\* \* \* \* \*

(vi) A breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and unknown causes.

\* \* \* \* \*

(10) For pressure relief devices in remediation material service, compliance reports must include the information specified in paragraphs (b)(10)(i) through (iii) of this section.

(i) For pressure relief devices in remediation material service subject to §63.7920(e), report the number of occurrences of an instrument reading of 500 ppm above the background level or greater, if detected more than 5 days after a pressure release.

(ii) For pressure relief devices in remediation service subject to §63.7923(c), report confirmation, yes or no, that the monitoring required to show compliance was conducted during the reporting period.

(iii) For pressure relief devices in remediation material service subject to §63.7923(d), report each pressure release to the atmosphere, including the following information:

(A) The date, time, and duration of the pressure release actuation event.

(B) An estimate of the mass quantity of total HAP listed in Table 1 of this subpart emitted during the pressure release actuation event and the method used for determining this quantity.

(C) The source, nature and cause of the pressure release actuation event.

(D) The actions taken to prevent this pressure release actuation event.

(E) The measures implemented during the reporting period to prevent future such pressure release actuation events, and, if applicable, the implementation schedule for planned corrective actions to be implemented subsequent to the reporting period.

(11) Pressure tank closure device or bypass deviation information. Compliance reports must include the information specified in paragraph (b)(11)(iv) of this section when any of the conditions in paragraphs (b)(11)(i) through (iii) of this section are met.

(i) Any pressure tank closure device, as specified in specified in §63.7895(d)(4), has released to the atmosphere.

(ii) Any closed vent system that includes bypass devices that could divert a vent a stream away from the control device and into the atmosphere, as specified in §63.7927(a)(2), has released directly to the atmosphere.

(iii) Any open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in §63.1014(c) or §63.1033(c), has released directly to the atmosphere.

(iv) The compliance report must include the information specified in paragraphs (b)(11)(iv)(A) through (E) of this section.

(A) The source, nature and cause of the release.

(B) The date, time and duration of the discharge.

(C) An estimate of the quantity of total HAP listed in Table 1 of this subpart emitted during the release and the method used for determining this quantity.

(D) The actions taken to prevent this release.

(E) The measures adopted to prevent future such releases.

(c) If your initial startup was on or before September 3, 2019, then until **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, if you had a startup, shutdown, or malfunction during the semiannual reporting period that was not consistent with your SSMP, you must submit an immediate startup, shutdown and malfunction report according to the requirements of §63.10(d)(5)(ii). If your initial startup date is after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, an immediate startup, shutdown, and malfunction report is not required.



\* \* \* \* \*

(e) *Performance Test and CMS Performance Evaluation Reports.* Within 60 days after the date of completing each performance test or continuous monitoring system (CMS) performance evaluation (as defined in §63.2) required by this subpart, the owner or operator must submit the results of the performance test or performance evaluation according to the manner specified by either paragraph (e)(1) or (2) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test.* Submit the results of the performance test or the performance evaluation of CMS measuring relative accuracy test audit (RATA) pollutants to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test or the performance evaluation of CMS measuring RATA pollutants by methods that are not supported by the ERT must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. The results of the performance test or the performance evaluation of CMS measuring RATA pollutants by methods that are not supported by the ERT, must be included as an attachment in the ERT or an alternate

electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(f) *Submitting reports electronically.* If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (<https://cdx.epa.gov/>). You must use the appropriate electronic report template on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri>) for this subpart. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(g) *Claims of EPA system outage.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (g)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(h) *Claims of force majeure.* If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (h)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.*, hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.*, large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

29. Section 63.7952 is amended by:

- a. Revising paragraph (a)(2);
- b. Redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(9) and (a)(10);
- c. Adding new paragraphs (a)(3) through (a)(8); and
- d. Adding paragraph (e) to read as follows:

**§63.7952 What records must I keep?**

(a) \* \* \*

(2) If your initial startup date is on or before September 3, 2019, you must continue to keep any records specified in §63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) If your initial startup was after September 3, 2019, then as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and for all sources after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each deviation from an emissions limitation (including an operating limit) or work practice standard occurring at an affected source, you must record information on the number of deviations. For each deviation, include the date, time, and duration, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, the actions taken to minimize emissions, the cause of the deviation (including unknown cause), as applicable, and the corrective actions taken to return the affected unit to its normal or usual manner of operation.

(4) For pressure relief devices in remediation material service, keep records of the information specified in paragraphs (a)(4)(i) through (iii) of this section, as applicable.

(i) A list of identification numbers for pressure relief devices that are not subject to the requirements of §63.7923(c) and (d) under the provisions of §63.7923(e).

(ii) A list of identification numbers for pressure relief devices subject to the requirements of §63.7923(a), (c) and (d) that do not consist of or include a rupture disk.

(iii) A list of identification numbers for pressure relief devices subject to the requirements of §63.7923(a), (c) and (d) equipped with rupture disks.

(5) For pressure relief devices in remediation material service subject to §63.7923(d), keep records of each pressure release event to the atmosphere as specified in paragraphs (a)(5)(i) through (viii) of this section.

(i) The date, time, and duration of the pressure release event.

(ii) The dates and results of the EPA Method 21 of 40 CFR part 60, appendix A, monitoring following a pressure release event, if applicable. The results of each monitoring event shall include the measured background level and the maximum instrument reading measured at each pressure relief device.

(iii) The dates replacement rupture disks were installed following a pressure release event, if applicable.

(iv) An estimate of the mass quantity of total HAP listed in Table 1 of this subpart emitted during the pressure release event and the method used for determining this quantity.

(v) The source, nature and cause of the pressure release event, including an identification of the affected pressure relief device(s) and a statement noting whether the event resulted from the same cause(s) identified following a previous pressure release event.

(vi) The corrective measures identified to prevent future such pressure release events, or an explanation of why corrective measures are not necessary.

(vii) The actions taken to prevent this pressure release event.

(viii) Records of the corrective measures implemented, including a description of the corrective measure(s) completed within the first 45 days following a pressure release event, and, if applicable, the implementation schedule for planned corrective measures to be implemented subsequent to the first 45 days following the pressure release event, including proposed commencement and completion dates. (6) Records of the number of pressure release events during each calendar year and the number of those events for which the cause was determined to be a force majeure event. Keep these records for the current calendar year and the past 5 calendar years.

(7) (i) For pressure tank closure devices, as specified in §63.7895(d)(4), keep records of each release to the atmosphere, including the information specified in paragraphs (iii)(A) through (G) of this section.

(ii) For each closed vent system that includes bypass devices that could divert a stream away from the control device and into the atmosphere, as specified in §63.7927(a)(2), and each open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in §63.1014(c) or §63.1033(c), keep records of each release to the atmosphere, including the information specified in paragraphs (iii)(A) through (G) of this section.

(iii)(A) The source, nature, and cause of the release.

(B) The date, time, and duration of the release.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the calculations used for determining this quantity.

(D) The actions taken to prevent this release.

(E) The measures adopted to prevent future such release.

(F) Hourly records of whether the bypass flow indicator specified under §63.7927(a)(2)(i) was operating and whether a diversion was detected at any time during the hour, as well as records of the times of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(G) Where a seal mechanism is used to comply with §63.7927(a)(2)(ii), hourly records of flow are not required. In such cases, you must record that the monthly visual inspection of the seals or closure mechanism has been done and record the duration of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

(8) A record of the fluid level at the beginning and end of each maintenance period during which the tank is subject to §63.7925(b)(3).

\*\*\*\*\*

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

30. Section 63.7956 is amended by adding paragraph (c)(5) to read as follows:

\* \* \* \* \*

(c) \* \* \*

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

31. Section 63.7957 is amended by:



- a. Adding, in alphabetical order, definitions for “Bypass,” “Force majeure,” “Pressure release,” “Pressure release actuation event,” and “Pressure relief device or valve;”
- b. Revising the definitions of “Deviation” and “Process vent;” and
- c. Removing the definition of “Safety device” to read as follows:

**§63.7957 What definitions apply to this subpart?**

\* \* \* \* \*

*Bypass* means diverting a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device.

\* \* \* \* \*

*Deviation* means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation (including any operating limit), or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation, (including any operating limit), or work practice standard in this subpart regardless of whether or not such failure is permitted by this subpart.

\* \* \* \* \*

*Force majeure event* means a release of HAP directly to the atmosphere from a pressure relief device that is demonstrated to the satisfaction of the Administrator to result from an event beyond the owner or operator's control, such as natural disasters; acts of war or terrorism; loss of a utility external to the Site Remediation unit (*e.g.*, external power curtailment), excluding power

curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the Site Remediation affected source that impacts the Site Remediation affected source's ability to operate.

\* \* \* \* \*

*Pressure release actuation event* means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

*Pressure relief device or valve* means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

\* \* \* \* \*

*Process vent* means any open-ended pipe, stack, duct, or other opening intended to allow the passage of gases, vapors, or fumes to the atmosphere and this passage is caused by mechanical means (such as compressors, vacuum-producing systems or fans) or by process-related means (such as volatilization produced by heating). For the purposes of this subpart, a process vent is neither a pressure relief device (as defined in this section) nor a stack, duct or other opening used to exhaust combustion products from a boiler, furnace, heater, incinerator, or other combustion device.

\* \* \* \* \*

32. Table 3 to subpart GGGGG of part 63 is revised to read as follows:

**Table 3 to Subpart GGGGG of Part 63—Applicability of General Provisions to Subpart GGGGG**

As stated in §63.7940, you must comply with the applicable General Provisions requirements according to the following table:

<b>Citation</b>	<b>Subject</b>	<b>Brief description</b>	<b>Applies to subpart GGGGG</b>
§63.1	Applicability	Initial Applicability Determination; Applicability After Standard Established; Permit Requirements; Extensions, Notifications	Yes.
§63.2	Definitions	Definitions for part 63 standards	Yes.
§63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§63.4	Prohibited Activities	Prohibited Activities; Compliance date; Circumvention, Severability	Yes.
§63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes.
§63.6(a)	Applicability	General Provisions (GP) apply unless compliance extension GP apply to area sources that become major	Yes.
§63.6(b)(1)-(4)	Compliance Dates for New and Reconstructed sources	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for 112(f)	Yes.
§63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal	Yes.
§63.6(b)(6)	[Reserved]		

§63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source	Yes.
§63.6(c)(1)-(2)	Compliance Dates for Existing Sources	Comply according to date in subpart, which must be no later than 3 years after effective date. For 112(f) standards, comply within 90 days of effective date unless compliance extension	Yes.
§63.6(c)(3)-(4)	[Reserved]		
§63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years)	Yes.
§63.6(d)	[Reserved]		
§63.6(e)(1)-(2)	Operation & Maintenance		No, see §63.7935(b).
§63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP)		No, see §63.7935(c).
§63.6(f)(1)	Compliance Except During SSM		No, see §63.7935(b).
§63.6(f)(2)-(3)	Methods for Determining Compliance	Compliance based on performance test, operation and maintenance plans, records, inspection	Yes.
§63.6(g)(1)-(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§63.6(h)	Opacity/Visible Emissions (VE) Standards	Requirements for opacity and visible emissions limits	No. No opacity standards.

§63.6(i)(1)-(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension	Yes.
§63.6(j)	Presidential Compliance Exemption	President may exempt source category from requirement to comply with final rule	Yes.
§63.7(a)(1)-(2)	Performance Test Dates	Dates for Conducting Initial Performance Testing and Other Compliance Demonstrations. Must conduct 180 days after first subject to final rule	Yes.
§63.7(a)(3)	CAA Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time	Yes.
§63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test	Yes.
§63.7(b)(2)	Notification of Rescheduling	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date	Yes.
§63.7(c)	Quality Assurance/Test Plan	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: Test plan approval procedures; performance audit requirements; internal and external QA procedures for testing	Yes.
§63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§63.7(e)(1)	Conditions for Conducting Performance Tests	Performance tests must be conducted under representative conditions. Cannot conduct performance tests during	No, see §63.7941(b)(2).

		SSM. Not a violation to exceed standard during SSM	
§63.7(e)(2)	Conditions for Conducting Performance Tests	Must conduct according to rule and EPA test methods unless Administrator approves alternative	Yes.
§63.7(e)(3)	Test Run Duration	Must have three test runs of at least one hour each. Compliance is based on arithmetic mean of three runs. Conditions when data from an additional test run can be used	Yes.
§63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method	Yes.
§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.
§63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test	Yes.
§63.8(a)(1)	Applicability of Monitoring Requirements	Subject to all monitoring requirements in standard	Yes.
§63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of part 60 apply	Yes.
§63.8(a)(3)	[Reserved]		
§63.8(a)(4)	Monitoring with Flares	Unless your rule says otherwise, the requirements for flares in 63.11 apply	Yes.

§63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative	Yes.
§63.8(b)(2)-(3)	Multiple Effluents and Multiple Monitoring Systems	Specific requirements for installing monitoring systems. Must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise. If more than one monitoring system on an emissions point, must report all monitoring system results, unless one monitoring system is a backup	Yes.
§63.8(c)(1)	Monitoring System Operation and Maintenance	Maintain monitoring system in a manner consistent with good air pollution control practices	Yes.
§63.8(c)(1)(i)	Monitoring System Operation	Operate and maintain system as specified in §63.6(e)(1)	No, see §63.7935(b)
§63.8(c)(1)(ii)	Monitoring System Repair	Keep part for routine repairs available	Yes.
§63.8(c)(1)(iii)	Monitoring System SSM Plan	Develop an SSM Plan for the monitoring system	No, see §63.7935(h)(1).
§63.8(c)(2)-(3)	Monitoring System Installation	Must install to get representative emissions and parameter measurements. Must verify operational status before or at performance test	Yes.
§63.8(c)(4)	Continuous Monitoring System (CMS) Requirements	CMS must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts	No.

§63.8(c)(4)(i)-(ii)	Continuous Monitoring System (CMS) Requirements	COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period. CEMS must have a minimum of one cycle of operation for each successive 15-minute period	Yes. However, COMS are not applicable. Requirements for CPMS are listed in §§63.7900 and 63.7913.
§63.8(c)(5)	COMS Minimum Procedures	COMS minimum procedures	No.
§63.8(c)(6)	CMS Requirements	Zero and High level calibration check requirements	Yes. However requirements for CPMS are addressed in §63.7927.
§63.8(c)(7)-(8)	CMS Requirements	Out-of-control periods, including reporting	Yes.
§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.
§63.8(e)	CMS Performance Evaluation	Notification, performance evaluation test plan, reports	Yes.
§63.8(f)(1)-(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring	Yes.
§63.8(f)(6)	Alternative to Relative Accuracy Test	Procedures for Administrator to approve alternative relative accuracy tests for CEMS	No.
§63.8(g)(1)-(4)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points. CEMS 1-hour averages	Yes. However, COMS are not applicable. Requirements for



		computed over at least four equally spaced data points	CPMS are addressed in §§63.7900 and 63.7913.
§63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CEMS and COMS	No.
§63.9(a)	Notification Requirements	Applicability and State Delegation	Yes.
§63.9(b)(1)-(5)	Initial Notifications.	Submit notification 120 days after effective date. Notification of intent to construct/reconstruct; Notification of commencement of construct/reconstruct; Notification of startup. Contents of each	Yes.
§63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed BACT/LAER	Yes.
§63.9(d)	Notification of Special Compliance Requirements for New Source	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date	Yes.
§63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	No.
§63.9(g)	Additional Notifications When Using CMS	Notification of performance evaluation. Notification using COMS data. Notification that exceeded criterion for relative accuracy	Yes. However, there are no opacity standards.
§63.9(h)(1)-(6)	Notification of Compliance Status	Contents. Due 60 days after end of performance test or other initial compliance demonstration, except for opacity/VE,	Yes.

		which are due 30 days after. When to submit to Federal vs. State authority	
§63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in when notifications must be submitted	Yes.
§63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension. When to submit to Federal vs. State authority. Procedures for owners of more than 1 source	Yes.
§63.10(b)(1)	Recordkeeping/Reporting	General Requirements. Keep all records readily available. Keep for 5 years	Yes.
§63.10(b)(2)(i) and (ii)	Records related to SSM	Exceedance of emission limit during startup, shutdown or malfunction	No, for new sources for which initial startup is after September 3, 2019. Yes, for all other affected sources before <b>[INSERT DATE 181 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]</b> , and No thereafter.
§63.10(b)(2)(iii)	Maintenance Records	Maintenance on air pollution control equipment.	Yes.
§63.10(b)(2)(iv) and (v)	Records related to SSM	Actions during SSM.	No, for new sources for which initial startup is after September 3, 2019. Yes, for all other affected sources before <b>[INSERT</b>

			<b>DATE 181 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], and No thereafter.</b>
§63.10(b)(2)(vi) and (x-xi)	CMS Records	Malfunctions, inoperative, out-of-control. Calibration checks. Adjustments, maintenance	Yes.
§63.10(b)(2)(vii)-(ix)	Records	Measurements to demonstrate compliance with emissions limitations. Performance test, performance evaluation, and visible emissions observation results. Measurements to determine conditions of performance tests and performance evaluations	Yes.
§63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test	No.
§63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status	Yes.
§63.10(b)(3)	Records	Applicability Determinations	Yes.
§63.10(c)	Records	Additional Records for CMS	No.
§63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§63.10(d)(2)	Report of Performance Test Results	When to submit to Federal or State authority	Yes.

§63.10(d)(3)	Reporting Opacity or VE Observations	What to report and when	No.
§63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension	Yes.
§63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	Contents and submission	No, see §63.7951(b)(4).
§63.10(e)(1)-(2)	Additional CMS Reports	Must report results for each CEM on a unit Written copy of performance evaluation Three copies of COMS performance evaluation	Yes. However, COMS are not applicable.
§63.10(e)(3)	Reports	Excess Emissions Reports	No.
§63.10(e)(3)(i-iii)	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations)	No.
§63.10(e)(3)(iv-v)	Excess Emissions Reports	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedance (now defined as deviations). Provision to request semiannual reporting after compliance for one 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 is a statement that there have been no deviations	No.
§63.10(e)(3)(iv-v)	Excess Emissions Reports	Must submit report containing all of the information in	No.

		§§63.10(c)(5-13) and 63.8(c)(7-8)	
§63.10(e)(3)(vi-viii)	Excess Emissions Report and Summary Report	Requirements for reporting excess emissions for CMSs (now called deviations). Requires all of the information in §§63.10(c)(5-13) and 63.8(c)(7-8)	No.
§63.10(e)(4)	Reporting COMS data	Must submit COMS data with performance test data	No.
§63.10(f)	Waiver for Recordkeeping/Reporting	Procedures for Administrator to waive	Yes.
§63.11	Control and work practice requirements	Requirements for flares and alternative work practice for equipment leaks	Yes.
§63.12	Delegation	State authority to enforce standards	Yes.
§63.13	Addresses	Addresses where reports, notifications, and requests are sent	Yes, only applicable to those reports not required to be submitted electronically.
§63.14	Incorporation by Reference	Test methods incorporated by reference	Yes.
§63.15	Availability of Information	Public and confidential information	Yes