commentors questioned the precedential implications of this action.

Test

As a result of the public input received, the ASA(CW) determined that the proposed criteria were appropriate, but that they should be tested by practical application. Corps headquarters directed the Omaha District to randomly sample 10 parcels of former tribal land at Lake Oahe and Lake Sakakawea an apply the four criteria/factors mentioned above to each parcel to illustrate, by example, the effect of implementing this policy.

The Omaha District selected 10 sections (one square mile) of land at each reservoir that contained former tribal lands. Once the sections were chosen, a map was prepared showing the relationship of the former tribal land to all other project lands within that section.

Applying a 2.5 acre blockout using close tangents above the contour of the maximum operating pool, parcels were identified which could be considered candidates for transfer. Each of these former tribal tracts were then inventoried, and the four mentioned criteria were applied to the candidate transfer parcels. A matrix was prepared for the purpose of summarizing the parcels and providing a basis for comparison.

The findings of this study indicate that along the 828 miles of shoreline at lake Sakakawea, using these criteria, there would be less than 800 acres available for excess. The findings at Lake Oahe indicate that along the 265 miles of shoreline less than 1,600 acres would be available for excess. Depending on the application of the above mentioned criteria, these numbers will likely be less.

The results of the study, as well as the maps prepared for the study, are on file at the Omaha District office, and may be examined.

Conclusion

After reviewing and considering the public input received and upon examining the results of this study, the Acting Assistant Secretary of the Army (Civil Works), in consultation with the Commander, U.S. Army Corps of Engineers, Missouri River Division and the Commander, U.S. Army Corps of Engineers, Omaha District, determined that the three of the four proposed criteria were valid criteria/factors that should be considered in determining which lands could be declared excess at Lakes Sakakawea and Oahe. The fourth criterion, ''consider precedential implications,'' was deemed unnecessary since this rule is limited to Corps lands within the Standing Rock Sioux Reservation and the Fort Berthold Reservation of the Three Affiliated Tribes and does not apply to other Corps projects. Also, the ASA(CW) determined that it would be appropriate and desirable to consider all former trust lands, allotted as well as tribal, for excessing for the following reasons: Inclusion of all trust lands is consistent with the manner in which lands were acquired for the project, and it creates more manageable land units for both the tribe and the Corps of Engineers. Further, including all former trust lands would be consistent with congressional intent.

Public Participation

Dates and addresses for public meetings will be announced at a later date.

Although this document is a notice of proposed rulemaking that solicits public comment, the Corps of Engineers has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act. The requirements of Executive Order No. 12291 do not apply to these procedures. These regulations do not constitute a ''major rule within the meaning of the Executive Order.''

List of Subjects in 33 CFR Part 211

Claims, Flood control, Indian reservations, Public lands, Real property acquisition, Reservoirs, Rights-of-way, Waterworks.

For the reasons set forth in the preamble, the Corps of Engineers proposes to amend 33 CFR Part 211, as set forth below:

Part 211—Real Estate Activities of the Corps of Engineers in Connection with Civil Works Projects

1. The authority citation for § 211.148 is added to read as follows:

Authority: Section 211.148 issued under 40 U.S.C. 483, 486.

2. A new center heading and § 211.148 are added, to read as follows:

Excessing of Lands Within Indian Reservations

§ 211.148 Excessing of lands within the Fort Berthold Reservation of the Three Affiliated Tribes at Lake Sakakawea and the Standing Rock Sioux Tribe Reservation at Lake Oahe.

For the projects at Lake Oahe and Lake Sakakawea, interests in real estate that are not required for project purposes may be considered excess to project purposes when:

(a) The lands lie within the external boundaries of the Standing Rock Sioux Tribe Reservation or the Fort Berthold Reservation of the Three Affiliated Tribes;

(b) The lands are former trust lands, either allotted or tribal, acquired for the project; and

(c) Appropriate interests in the lands may be retained, or conditions imposed, as are necessary to preserve the integrity of legislatively authorized project operations; provided:

(1) There has been no substantial capital investment in the property which cannot be recovered by the investor prior to excessing;

(2) There will be no unreasonable impact on access to public and private land; and

(3) There will be no unreasonable impact on municipal and rural water supply systems.

Dated: March 23, 1995.

Approved:

Elizabeth L. Fagot,

Deputy Director of Real Estate.

[FR Doc. 95–8236 Filed 4–7–95; 8:45 am]

BILLING CODE 3710–62–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL–5182–6]

RIN 2060–AC19

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: clarification.

SUMMARY: This action proposes clarifying changes and corrections to certain portions of the ''National Emission Standards for Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks'' (collectively known as the ''hazardous organic NESHAP'' or the ''HON''). This action proposes to remove three compounds (glycerol tri-(polyoxypropylene)ether, polyethylene

glycol, and polypropylene glycol) from the list of chemical production processes regulated by the HON. The production of these compounds is also included in the source category ''Polyether Polyols Production'' and will be regulated by that national emission standards for hazardous air pollutants (NESHAP). The EPA is also proposing several changes to the equipment leak requirements to clarify the intent of certain provisions, to correct oversights, and to simplify demonstration of compliance with the regulation.

DATES: *Comments.* Comments must be received on or before May 10, 1995, unless a hearing is requested by April 20, 1995. If a hearing is requested, written comments must be received by May 25, 1995.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than April 20, 1995. If a hearing is held, it will take place on April 25, 1995, beginning at 10 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–20 (see docket section below), room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mrs. Kim Teal, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5580.

Docket. Dockets No. A–90–20 and A–89–10, containing the supporting information for the original NESHAP and this action, are available for public inspection and copying between 8 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, room M–1500, first floor, 401 M Street SW, Washington, DC 20460, or by calling (202) 260–7548 or 260–7549. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Janet S. Meyer, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5254.

SUPPLEMENTARY INFORMATION:

I. Background

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the EPA promulgated in the **Federal Register** NESHAP for the synthetic organic chemical manufacturing industry (SOCMI), and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H, and I in 40 CFR part 63. Since the rule was issued, the EPA has received inquiries regarding certain portions of the rule and EPA has concluded that it is necessary to clarify these provisions and to correct several oversights.

II. Removal of Polyols From Table 1 of Subpart F

The list of SOCMI chemicals currently includes three compounds—glycerol tri-(polyoxypropylene)ether, polyethylene glycol, and polypropylene glycol—whose production emissions will be regulated by the NESHAP for ''Polyether Polyols Production,'' a category of major sources for which a maximum achievable control technology (MACT) standard is scheduled to be promulgated by November 15, 1997. According to documentation for the list of source categories, the definition of ''Polyether Polyols Production'' encompasses all commercially important polyether polyols, and therefore would clearly include these three chemical productions currently subject to the HON.

The EPA believes that it would be more reasonable and efficient to regulate emissions from production of all polyether polyols under only one rule, rather than regulating some processes under one rule and other polyol processes under a different rule. Specifically, the production process for all polyether polyols is very similar, and typical polyol facilities may manufacture both SOCMI and non-SOCMI polyether polyols with the same equipment. Thus, EPA concluded that it would be inappropriate to regulate polyols under the HON. Also, because hazardous air pollutant (HAP) emissions from polyether polyol production are relatively low, postponing regulation of polyether polyols would not forestall large HAP emission reductions.

Accordingly, the EPA proposes to remove these three chemicals from the list of SOCMI chemicals, located in table 1 of subpart F of the final rule, and to address these production processes under the subsequent polyether polyols production rule.

II. Proposed Changes to Subpart H

A. Consolidation of Equipment Leak Programs

Since 1981, EPA and States have issued a number of different guidelines and regulations for controlling emissions from equipment leaks. Some companies have reported that they have to comply with anywhere from 5 to 11 different equipment leak programs at one plant site. These programs principally differ in applicability criteria and have minor differences in other details of the provisions. Because of concerns regarding the cost of maintaining separate programs, the Regulatory Negotiation Committee (Committee) that negotiated the proposed rule upon which subpart H is based agreed that compliance with the negotiated rule would also constitute compliance with any overlapping applicable new source performance standards (NSPS) or NESHAP (e.g., subpart VV of part 60 or subpart J of part 61). Unfortunately, this provision (40 CFR § 63.160(b)) does not allow enough consolidation of programs to adequately address the problem. Owners and operators of process units subject to the HON still must maintain multiple programs because process units may have non-HAP containing process equipment as well as HAP containing process equipment. Consequently, a number of industry representatives and a State agency have requested that EPA also allow owners and operators the option of consolidating all the volatile organic compounds (VOC) and HAP equipment leak programs into one program for each process unit. The EPA agrees that consolidation of programs will allow for more efficient management of programs, reduce cost of compliance, and improve compliance. As EPA believes that the HON contains more stringent requirements than any other Federal equipment leak regulations, EPA proposes to allow override of those requirements with the provisions of subpart H. It is proposed to add a new paragraph (c) to § 63.160 to allow an owner or operator to elect to comply with subpart H for all VOC containing process equipment in the process unit in lieu of compliance with 40 CFR part 60 subparts VV, GGG, or KKK or with 40 CFR part 61 subparts F or J. The EPA also encourages States to allow consolidation of State equipment leak programs under subpart H. The EPA believes that establishing one program for a plant site or process unit would reduce costs to States and local agencies for permitting and enforcing rules as well as reduce the cost of

compliance for owners or operators of sources.

B. Sampling Connection Systems

Subpart H requires that each sampling connection system be equipped with either a closed-loop or closed-vent system or that a closed-purge system be used, and that the system either return the purge directly to the process, collect and recycle the purge, or send the purge to a control device. Following issuance of the final rule, several chemical companies inquired whether the purge material could be sent to a hazardous waste treatment, storage, and disposal facility (TSDF) or a controlled wastewater collection and treatment facility in lieu of sending the purge to a control device as specified in § 63.172. Typically, the purge material could not be returned to the process due to polymerization or other characteristics that severely limited the utility of the material. The EPA agrees that this control option would meet the intent of the sampling connection system provisions, which is to ensure that purged material is captured and either returned to a process or destroyed. Therefore, it is proposed to add provisions to § 63.166 to allow treatment of collected purge material at permitted TSDF or solid waste facilities. The proposed provisions also allow use of waste management units complying with §§ 63.133–63.138 of subpart G. The proposed § 63.166 also includes minor clarifying edits to paragraphs (a) and (b)(1) through (b)(3). Also, due to numerous questions, EPA is proposing to add a definition for the term sampling connection system.

C. Less Frequent Monitoring of Valves in Phase III

Since the final rule was issued, EPA has received inquiries about the feasibility of using data collected before April 22, 1994 and use of data that differs slightly from the requirements of § 63.180(b). Although the preamble to the final rule (59 FR 19446) did state that the rule was intended to allow owners or operators the flexibility to initiate phase III of the valve standard at anytime, the revisions to subpart H did not include an explicit statement that data collected before April 22, 1994 could be used or that less frequent monitoring within Phase III could begin. Some of the callers seemed to be concerned that the requirements for monitoring data specified in § 63.180(b) precluded use of data collected before the rule was final. Consequently, it is proposed to add paragraphs to § 63.168 and § 63.174 to specifically allow use of data collected before April 22, 1994. It is also proposed to clarify that data collected before April 22, 1994 may have minor deviations from the requirements in § 63.180(b)(1) through (b)(6). Examples of minor deviations from the requirements of § 63.180(b)(1) through (b)(6) are use of a slightly different monitoring frequency or monitoring at a different leak definition provided the data would still indicate the presence or absence of a leak.

D. Flow Indicators

In the HON, as well as in other section 111 and 112 standards, EPA has required the use of flow indicators or car-seal systems to ensure that emissions are continuously vented to an appropriate control device [see § 63.172(j)(1) for example]. The EPA has recently learned that, as these provisions are presently drafted, it appears that either flow must be measured or that specified equipment (i.e., car-seal systems or lock and key-type valve configurations) must be used. The intent of these provisions is to provide a means of indicating when emissions are bypassing a control device. There was no intention in drafting these provisions to limit the method used for detecting or monitoring for potential by-passes of control devices. The EPA has concluded that these provisions need to be clarified and the clearest way is to expand the definition of flow indicator to include reference to devices that do not measure flow and to remove the reference to presence of flow from the by-pass monitoring requirement. The EPA is proposing to amend subpart H to clarify this provision by adding a definition for ''flow indicator'' and by revising paragraph (j)(1) of § 63.172.

E. Safety Issues With § 63.163 and § 63.167

Since the final rule was promulgated, EPA has learned of a few situations where compliance with the provisions of the rule creates, or has the potential to create, serious safety hazards for plant or monitoring personnel. These concerns arise because no provisions presently exist in some sections of subpart H to exempt unsafe situations from specific equipment or monitoring requirements. The need for these provisions was not raised in the Committee discussions or in the public comments. The EPA believes that the concerns are being raised now as the rule is being implemented because these safety issues only arise in a few cases.

Consequently, EPA is proposing to add unsafe-to-monitor provisions for pumps and an exemption from the requirement to cap, or plug, open-ended lines or valves for materials that represented a safety or explosion hazard. The unsafe-to-monitor provision for pumps is patterned after the unsafe-to-monitor valve provisions. Pumps that are unsafe-to-monitor are pumps that are located in an area that presents an imminent danger to personnel due to the presence of toxic materials, explosive process conditions, or high pressure. This provision would exempt pumps in unsafe locations from routine monitoring requirements, but would require monitoring during safe-to-monitor periods.

The EPA is also proposing to exempt open-ended lines or valves containing materials that represented a safety or explosion hazard from the requirement to equip the line with a cap or plug. The EPA has recently learned that in a few processes the requirement to cap, or plug, the line could result in trapping highly-reactive monomer in the line. In these cases, the polymerization reaction will cause serious overpressure and catastrophic equipment failure presenting a safety hazard to plant personnel and creating the potential for greater emissions to the atmosphere than if the line were left uncapped.

F. Inaccessible and Difficult-to-Monitor Agitators

The Committee developed the requirements for agitators based on the assumption that agitators were technologically similar to pumps. In the Committee discussions, it was assumed that agitators would be just as accessible as pumps. The EPA has recently learned that there are a few facilities where agitators are inaccessible, and it simply is not feasible to monitor this equipment. Consequently, it is proposed to add an exemption for inaccessible agitators and to provide consideration for difficult-to-monitor agitators. The proposed provisions in §§ 63.173(h) and (i) are patterned after the difficult-to-monitor valve provisions and the inaccessible connector provision in § 63.174(h)(1)(iii). Because it is conceivable that there could also be processes where agitators are located in areas that pose an imminent danger to monitoring personnel, provisions to exempt unsafe-to-monitor agitators are also proposed. Recordkeeping requirements for difficult-to-monitor and unsafe-to-monitor equipment are included in the proposed revisions to § 63.181(b)(7).

G. Porcelain Connectors

In development of the connector provisions, the Committee exempted glass and glass-lined connectors from the monitoring requirements because of

the limited potential for on-line repair. The Committee was concerned that tightening of bolts on glass and glass-lined connectors presented a high risk of breakage and potential for significant accidental releases. Since the rule was issued, EPA has learned that porcelain connectors are also used at some facilities. Since porcelain connectors, as well as other forms of ceramic materials, would also have a high risk of breakage during on-line repairs, EPA is proposing to revise § 63.174(h)(1) to use the more generic terminology ''ceramic or ceramic-lined'' connector.

H. Pressure Test for Batch Process Equipment

Two changes are being proposed to the pressure test provisions of § 63.180(f). The pressure test provisions for batch process equipment were derived from general industry practice and EPA's experience with testing of tank trucks and railcars for vapor tightness. In development of these provisions, the Committee assumed that this testing would be conducted on equipment operating at pressures greater than atmospheric but less than 10 pounds per square inch gauge (psig). The EPA has since learned that there are some batch operations operating at essentially atmospheric pressure for which the pressure/vacuum test provisions represent the only practical means of complying with the standard. Unfortunately, the Committee agreed to language on the test provisions that does not allow pressurization beyond the operating pressure of the equipment. The EPA believes that this is an unintentional limitation on the availability of the pressure test option. Therefore, EPA is proposing to revise § 63.180(f)(1) to allow pressurization to less than the set pressure of any pressure relief device or to within safety limits of the operating equipment. The EPA has also recently become aware that there are batch processes operating at greater than 10 psig for which the owner or operator also wishes to use the pressure/vacuum test provisions of the rule. In such cases, the precision requirements for the pressure gauge (±2.5 mm mercury in the range of the test pressure) could mean no pressure gauge would be available or no gauge would be available at a reasonable cost. To determine whether any revision to these provisions would be appropriate, the EPA reviewed the basis for the precision specification for the pressure gauge. It was found that the precision specified in the rule was the result of the assumed range of test pressures, an assumed test duration of 15 minutes, and a relative accuracy of ±10 percent. Based on these findings EPA thinks that it would be appropriate to allow an alternative procedure for cases where a pressure gauge with a precision of ±2.5 mm mercury in the range of the test pressure is not reasonably available. The EPA proposes to allow the owner or operator to use a pressure gauge with a precision of ±10 percent of the test pressure and to extend the duration of the test for the time necessary to detect a pressure loss (or rise) that equals a rate of 1 psig/hr.

IV. Proposed Changes to Subpart I

A. Notification and Compliance Dates for Process Changes

Presently, subpart I does not specify compliance dates for process units or equipment affected by operational changes as is done in §§ 63.100(k) through (m) of subpart F. These subpart F provisions specify the notification and approval requirements for each type of change as well as the compliance date for equipment affected by the change. These procedures were included in subpart F to allow HON sources to follow the administrative procedures in subpart F, subpart G, and, as appropriate, the administrative procedures of subpart A and the operating permits rule until final action on the section 112(g) rule resolves the question of whether individual MACT standard administrative procedures supersede the administrative procedures of the section 112(g) rule. These provisions were omitted from subpart I. To correct this omission paragraphs (g)(3), (g)(4), and (h) are proposed to be added to § 63.190 to specify compliance dates for operational changes that are expected to occur.

B. Definitions

Definitions for ''process unit'' and ''source'' are proposed to be added to § 63.191 to correct an oversight. These definitions were inadvertently omitted in drafting the final rule. The proposed definition for ''process unit'' is derived from the original definition agreed to by the Committee. The proposed definition for ''source'' is based on the definition for ''source'' in subpart F.

Due to several requests for clarification of the applicability of subpart I to operations at pharmaceutical facilities, the EPA is also proposing a revision to the definition of ''pharmaceutical production process.'' The provisions of subpart I were intended to apply only to those pharmaceutical production processes that synthesize a pharmaceutical product. At facilities with solvent recovery capabilities, waste solvent from the synthesis process is generally recovered and purified in a step separate from the pharmaceutical synthesis process. The provisions of subpart I were not intended to cover such solvent recovery processes. Peripheral operations not necessary for the production of the drug, such as formulation (the physical mixing of one or more final products), tablet coating (physically coating the final product), and solvent recovery (repurifying the solvent after drug production and reintroducing the pure solvent into raw solvent storage), are not considered part of the pharmaceutical production process as defined in subpart I. Therefore, EPA is proposing to add a phrase to the last sentence in the definition to clarify that solvent recovery operations located at pharmaceutical facilities are not subject to the provisions of Subpart I. This definition for ''pharmaceutical production process'' in subpart I should be viewed as being unique to subpart I and should not be viewed as determining applicability in other standards.

C. Bench-Scale Batch Process Equipment

It has recently come to EPA's attention that there are a few pharmaceutical companies producing products in extremely small batches using laboratory or small bench-scale equipment. The equipment in these processes is very small (typically valves and connectors are less than 0.5 inches in diameter) and is closely-spaced. These small bench-scale processes typically produce a kilogram or less of product per batch and only a small number of batches are run each year. However, because the components in these processes are generally in HAP service more than 300 hours per year, the processes would be subject to the provisions of subparts I and H. The EPA is revising § 63.190(f) of subpart I to clarify that bench-scale batch processes are not subject to the provisions of subpart I and H. A definition for ''bench-scale batch process'' is also being added to § 63.191 of subpart I. The EPA thinks that this correction is necessary because the equipment cannot reasonably be monitored and repaired routinely for any rational benefit. The equipment in these processes is so tightly situated that access by the monitor probe is essentially precluded and it is difficult to determine the origin of a leak if one is detected. Furthermore, due to the size of these units, emissions would be insignificant due to the small number of components, the amount of time the components are in HAP

service, and the small quantities of materials processed.

V. Administrative

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (OMB control number 1414.02) may be obtained from Sandy Farmer, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460 or by calling (202) 260–2740.

Today's proposed changes to the NESHAP should have no impact on the information collection burden estimates made previously. The changes consist of new definitions, alternative test procedures, and clarifications of requirements; not additional requirements. Consequently, the ICR has not been revised.

B. Executive Order 12866 Review

The HON rule promulgated on April 22, 1994 was considered ''significant'' under Executive Order 12866 and a regulatory impact analysis (RIA) was prepared. The amendments issued today clarify the rule and do not add any additional control requirements. The EPA believes that these amendments would have a negligible impact on the results of the RIA and the change is considered to be within the uncertainty of the analysis.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been prepared.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: March 28, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 subparts F, H and I of the Code of Federal Regulations is proposed to be amended as follows:

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

Authority: Sections 101, 112, 114, 116, and 301 of the Clean Air Act (42 U.S.C. 7401, *et seq.*, as amended by Pub. L. 101–549, 104 Stat. 2399).

Subpart F—National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry

Table 1 of Subpart F—[Amended]

2. Table 1 of subpart F is amended by removing the entries for glycerol tri-(polyoxypropylene)ether, polyethylene glycol, and polypropylene glycol and their associated CAS number and group number.

Subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks

3. Section 63.160 is amended by adding a new paragraph (c) to read as follows:

§ 63.160 Applicability and designation of source.

* * * * *

(c) If a process unit subject to the provisions of this subpart has equipment to which this subpart does not apply, but which is subject to a standard identified in paragraph (c)(1) or (c)(2) of this section, the owner or operator may elect to apply this subpart to all such equipment in the process unit. If the owner or operator elects this method of compliance, all VOC in such equipment shall be considered, for purposes of applicability and compliance with this subpart, as if it were organic HAP. Compliance with the provisions of this subpart, in the manner described in this paragraph, shall be deemed to constitute compliance with the standard identified in paragraph (c)(1) or (c)(2) of this section.

(1) 40 CFR part 60 subpart VV, GGG, or KKK; or

(2) 40 CFR part 61 subpart F or J.

* * * * *

4. Section 63.161 is amended by adding in alphabetical order the definitions ''flow indicator'' and ''sampling connection system'' to read as follows:

§ 63.161 Definitions.

* * * * *

Flow indicator means a device which indicates whether gas flow is, or whether the valve position would allow gas flow to be present, in a line.

* * * * *

Sampling connection system means an assembly of equipment within a process unit used during periods of representative operation to take samples of the process fluid. Equipment used to take non-routine grab samples is not considered a sampling connection system.

* * * * *

5. Section 63.163 is amended by adding paragraph (j) to read as follows:

§ 63.166 Standards: Pumps in light liquid service.

* * * * *

(j) Any pump that is designated, as described in § 63.181(b)(7)(i) of this subpart, as an unsafe-to-monitor pump is exempt from the requirements of paragraphs (b) through (e) of this section if:

(1) The owner or operator of the pump determines that the pump is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraphs (b) through (d) of this section; and

(2) The owner or operator of the pump has a written plan that requires monitoring of the pump as frequently as practicable during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable.

6. Section 63.166 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.166 Standards: Sampling connection systems.

(a) Each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed-vent system, except as provided in § 63.162(b) of this subpart. Gases displaced during filling of the sample container are not required to be collected or captured.

(b) Each closed-purge, closed-loop, or closed-vent system as required in paragraph (a) of this section shall:

(1) Return the purged process fluid directly to the process line; or

(2) Collect and recycle the purged process fluid to a process;

(3) Be designed and operated to capture and transport the purged process fluid to a control device that complies with the requirements of § 63.172 of this subpart; or

(4) Collect and transport the purged process fluid to a system or facility identified in paragraph (b)(4)(i), (ii), or (iii) of this section.

(i) A waste management unit as defined in § 63.111 of subpart G of this part, if the waste management unit is subject to, and operated in compliance with the provisions of subpart G of this part applicable to group 1 wastewater streams.

(ii) A treatment, storage, or disposal facility subject to regulation under 40 CFR part 264, 265, or 266; or

(iii) A facility permitted, licensed, or registered by a State to manage municipal or industrial solid waste, if the process fluids are not hazardous waste as defined in 40 CFR part 261.

* * * * *

7. Section 63.167 is amended by adding paragraph (e) to read as follows:

§ 63.167 Standards: Open-ended valves or lines.

* * * * *

(e) Open-ended valves or lines containing materials which would autocatalytically polymerize or, would prevent an explosion, serious overpressure, or other safety hazard if capped or equipped with a double block and bleed system as specified in paragraphs (a) through (c) of this section are exempt from the requirements of paragraph (a) through (c) of this section.

8. Section 63.168 is amended by adding a new paragraph (a)(3) to read as follows:

§ 63.168 Standards: Valves in gas/vapor service and in light liquid service.

(a) * * *

(3) The use of monitoring data generated before April 22, 1994 to qualify for less frequent monitoring is governed by the provisions of § 63.180(b)(6) of this subpart.

* * * * *

9. Section 63.172 is amended by revising the first sentence of paragraph (j)(1) to read as follows:

§ 63.172 Standards: Closed-vent systems and control devices.

* * * * *

(j) * * *

(1) Install, set or adjust, maintain, and operate a flow indicator that takes a reading at least once every 15 minutes. * * *

* * * * *

10. Section 63.173 is amended by adding paragraphs (h), (i) and (j) to read as follows:

§ 63.173 Standards: Agitators in gas/vapor service and in light liquid service.

* * * * *

(h) Any agitator that is difficult-to-monitor is exempt from the requirements of paragraphs (a) through (d) of this section if:

(1) The owner or operator determines that the agitator cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface or it is not accessible at anytime in a safe manner;

(2) The process unit within which the agitator is located is an existing source or the owner or operator designates less than 3 percent of the total number of agitators in a new source as difficult-to-monitor; and

(3) The owner or operator follows a written plan that requires monitoring of the agitator at least once per calendar year.

(i) Any agitator that is obstructed by equipment or piping that prevents access to the agitator by a monitor probe is exempt from the monitoring requirements of paragraphs (a) through (d) of this section.

(j) Any agitator that is designated, as described in § 63.181(b)(7)(i) of this subpart, as an unsafe-to-monitor agitator is exempt from the requirements of paragraphs (b) through (d) of this section if:

(1) The owner or operator of the agitator determines that the agitator is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraphs (a) through (d) of this section; and

(2) The owner or operator of the agitator has a written plan that requires monitoring of the agitator as frequently as practicable during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable.

11. Section 63.174 is amended by adding a new paragraph (b)(4) and by revising the first sentence of paragraph (h)(1) introductory text to read as follows:

§ 63.174 Standards: Connectors in gas/vapor service and in light liquid service.

* * * * *

(b) * * *

(4) The use of monitoring data generated before April 22, 1994 to qualify for less frequent monitoring is governed by the provisions of § 63.180(b)(6).

* * * * *

(h)(1) Any connector that is inaccessible or is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined), is exempt from the monitoring requirements of paragraphs (a) and (c) of this section and from the recordkeeping and reporting requirements of § 63.181 and § 63.182 of this subpart. * * *

* * * * *

12. Section 63.180 is amended by redesignating paragraph (b)(2) as (b)(2)(i) and revising the first sentence of newly designated paragraph (b)(2)(i), by adding a paragraph (b)(2)(ii), by revising paragraph (b)(4)(iii), by revising paragraph (b)(6) by revising paragraph (f)(1), and by adding a sentence to paragraph (f)(4) to read as follows:

§ 63.180 Test methods and procedures.

* * * * *

(b) * * *

(2)(i) Except as provided for in paragraph (b)(2)(ii) of this section, the detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the process fluid not each individual VOC in the stream. * * *

(ii) If no instrument is available at the plant site that will meet the performance criteria specified in paragraph (b)(2)(i) of this section, the instrument readings may be adjusted by multiplying by the average response factor of the process fluid, calculated on an inert-free basis as described in paragraph (b)(2)(i) of this section.

(3) * * *

(4) * * *

(iii) The instrument may be calibrated at a higher methane concentration than the concentration specified for that piece of equipment. The concentration of the calibration gas may exceed the concentration specified as a leak by no more than 2,000 parts per million. If the monitoring instrument's design allows for multiple calibration scales, then the lower scale shall be calibrated with a calibration gas that is no higher than 2,000 parts per million above the concentration specified as a leak and the highest scale shall be calibrated with a calibration gas that is approximately equal to 10,000 parts per million.

* * * * *

(6) Monitoring data that do not meet the criteria specified in paragraphs (b)(1) through (b)(5) of this section may be used to qualify for less frequent monitoring under the provisions in § 63.168 (d)(2) and (d)(3) or § 63.174 (b)(3)(ii) or (b)(3)(iii) of this subpart provided the data meet the conditions specified in paragraphs (b)(6)(i) and (b)(6)(ii) of this section.

(i) The data were obtained before April 22, 1994.

(ii) The departures from the criteria specified in paragraphs (b)(1) through (b)(5) of this section or from the specified monitoring frequency of § 63.168(c) are minor and do not significantly affect the quality of the data. Examples of minor departures are monitoring at a slightly different frequency (such as every 6 weeks instead of monthly or quarterly), following the performance criteria of section 3.1.2(a) of Method 21 of Appendix A of 40 CFR part 60 instead of paragraph (b)(2) of this section, or monitoring at a different leak definition

if the data would indicate the presence or absence of a leak at the concentration specified in this subpart. Failure to use a calibrated instrument is not considered a minor departure.

* * * * *

(f) * * *

(1) The batch product-process equipment train shall be pressurized with a gas to a pressure less than the set pressure of any safety relief devices or valves or to a pressure slightly above the operating pressure of the equipment, or alternatively the equipment shall be placed under a vacuum.

(2) * * *

(3) * * *

(4) * * * If such a pressure measurement device is not reasonably available, the owner or operator shall use a pressure measurement device with a precision of at least ±10 percent of the test pressure of the equipment and shall extend the duration of the test for the time necessary to detect a pressure loss or rise that equals a rate of 1 psig per hour.

* * * * *

13. Section 63.181 is amended by revising the introductory text in paragraph (b)(7) and by revising paragraph (b)(7)(ii) to read as follows:

§ 63.181 Recordkeeping requirements.

* * * * *

(b) * * *

(7) The following information pertaining to all pumps subject to the provisions of § 63.163(j), valves subject to the provisions of § 63.168(h) and (i) of this subpart, agitators subject to the provisions of § 63.173(h) through (j), and connectors subject to the provisions of § 63.174 (f) through (h) of this subpart shall be recorded:

(i) * * *

(ii) A list of identification numbers for the equipment that is designated as difficult to monitor, an explanation of why the equipment is difficult to monitor, and the planned schedule for monitoring this equipment.

* * * * *

Subpart I—National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks

14. Section 63.190 is amended by revising paragraph (f), paragraphs (g)(1) introductory text and (g)(2) introductory text, by adding paragraphs (g)(3) and (g)(4), and revising paragraph (i) to read as follows:

§ 63.190 Applicability and designation of source.

* * * * *

(f) The provisions of subparts I and H of this part do not apply to research and development facilities or to bench-scale batch processes, regardless of whether the facilities or processes are located at the same plant site as a process subject to the provisions of subpart I and H of this part.

(g)(1) If an additional process unit specified in paragraph (b) of this section is added to a plant site that is a major source as defined in section 112(a) of the Act, the addition shall be subject to the requirements for a new source in subparts H and I of this part if:

* * * * *

(2) If any change is made to a process subject to this subpart, the change shall be subject to the requirements for a new source in subparts H and I of this part if:

* * * * *

(3) If an additional process unit is added to a plant site or a change is made to a process unit and the addition or change is determined to be subject to the new source requirements according to paragraphs (g)(1) or (g)(2) of this section:

(i) The new or reconstructed source shall be in compliance with the new source requirements of subparts H and I of this part upon initial start-up of the new or reconstructed source or by April 22, 1994, whichever is later; and

(ii) The owner or operator of the new or reconstructed source shall comply with the reporting and recordkeeping requirements in subparts H and I of this part that are applicable to new sources. The applicable reports include, but are not limited to:

(A) Reports required by § 63.182(b), if not previously submitted, § 63.182(c) and (d) of subpart H of this part; and

(B) Reports and notifications required by subpart A of this part that are applicable to subparts H and I of this part, as identified in § 63.192(a) of this subpart.

(4) If an additional process unit is added to a plant site, if a surge control vessel or bottoms receiver becomes subject to § 63.170 of subpart H, or if a compressor becomes subject to § 63.164 of subpart H, and if the addition or change is not subject to the new source requirements as determined according to paragraphs (g)(1) or (g)(2) of this section, the requirements in paragraphs (g)(4)(i) through (g)(4)(iii) of this section shall apply. Examples of process changes include, but are not limited to, changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. For purposes of this paragraph, process changes do not include: process upsets, unintentional temporary process changes, and changes that are within the equipment configuration and operating conditions documented in the Notification of Compliance Status required by § 63.182(c) of subpart H of this part.

(i) The added emission point(s) and any emission point(s) within the added or changed process unit are subject to the requirements of subparts H and I of this part for an existing source;

(ii) The added emission point(s) and any emission point(s) within the added or changed process unit shall be in compliance with subparts H and I of this part by the dates specified in paragraphs (g)(4)(ii)(A) or (g)(4)(ii)(B) of this section, as applicable.

(A) If a process unit is added to a plant site or an emission point(s) is added to an existing process unit, the added process unit or emission point(s) shall be in compliance upon initial start-up of the added process unit or emission point(s) or by April 22, 1997, whichever is later.

(B) If a surge control vessel or bottoms receiver becomes subject to § 63.170 of subpart H, if a compressor becomes subject to § 63.164 of subpart H, or if a deliberate operational process change causes equipment to become subject to subpart H of this part, the owner or operator shall be in compliance upon initial start-up or by April 22, 1997, whichever is later, unless the owner or operator demonstrates to the Administrator that achieving compliance will take longer than making the change. The owner or operator shall submit to the Administrator for approval a compliance schedule, along with a justification for the schedule. The Administrator shall approve the compliance schedule or request changes within 120 calendar days of receipt of the compliance schedule and justification.

(iii) The owner or operator of a process unit or emission point that is added to a plant site and is subject to the requirements for existing sources shall comply with the reporting and recordkeeping requirements of subparts H and I of this part that are applicable to existing sources, including, but not limited to, the reports listed in paragraphs (g)(4)(iii)(A) and (g)(4)(iii)(B) of this section.

(A) Reports required by § 63.182 of subpart H of this part; and

(B) Reports and notifications required by subpart A of this part that are applicable to subparts H and I of this part, as identified in § 63.192(a) of this subpart.

(i) If a change that does not meet the criteria in paragraph (g)(4) of this section is made to a process unit subject to subparts H and I of this part, and the change causes equipment to become subject to the provisions of subpart H of this part, then the owner or operator shall comply with the requirements of subpart H of this part for the equipment as expeditiously as practicable, but in no event later than 3 years after the equipment becomes subject.

(1) The owner or operator shall submit to the Administrator for approval a compliance schedule, along with a justification for the schedule.

(2) The Administrator shall approve the compliance schedule or request changes within 120 calendar days of receipt of the compliance schedule and justification.

* * * * *

15. Section 63.191 is amended by adding in alphabetical order definitions for ''bench-scale batch process,'' ''process unit,'' and ''source'' to paragraph (b) and revising the definition of ''pharmaceutical production process'' in paragraph (b) to read as follows:

§ 63.191 Definitions.

(b) * * *

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

* * * * *

Pharmaceutical production process means a process that synthesizes pharmaceutical intermediate or final products using carbon tetrachloride or methylene chloride as a reactant or process solvent. Pharmaceutical production process does not mean process operations involving formulation activities, such as tablet coating or spray coating of drug particles, or solvent recovery.

* * * * *

Process unit means the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture a product. For the purposes of this subpart, process unit includes all unit operations and associated equipment (e.g., reactors and associated product separators and recovery devices), associated unit operations (e.g., extraction columns), any feed and product storage vessels, and any transfer racks for distribution of final product.

* * * * *

Source means the collection of equipment listed in § 63.190(d) to which this subpart applies as determined by the criteria in § 63.190. For purposes of subparts H and I of this part, the term *affected source* as used in subpart A of this part has the same meaning as the term source defined in this definition.

* * * * *

[FR Doc. 95–8201 Filed 4–7–95; 8:45 am]

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40 CFR Part 63

[AD-FRL–5182–5]

RIN 2060–AC19

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to correct errors and clarify regulatory text of the ''National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks,'' which was issued as a final rule on April 22, 1994 and June 6, 1994. This rule is commonly known as the Hazardous Organic NESHAP or the HON. Because the revisions merely correct errors and clarify regulatory text the Agency does not anticipate receiving adverse comments. Consequently the revisions are also being issued as a direct final rule in the final rules section of this **Federal Register**. If no significant adverse comments are timely received, no further action will be taken with respect to this proposal and the direct final rule will become final on the date provided in that action.

DATES: *Comments.* Comments must be received on or before May 10, 1995, unless a hearing is requested by April 20, 1995. If a hearing is requested, written comments must be received by May 25, 1995.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than April 20, 1995. If a hearing is held, it will take place on April 25, 1995, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–20 (see docket section below), room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mrs. Kim Teal, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5580.

Docket. Dockets No. A–90–20 and A–89–10, containing the supporting information for the original NESHAP and this action, are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, room M–1500, first floor, 401 M Street SW, Washington, DC 20460, or by calling (202) 260–7548 or 260 -7549. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Janet S. Meyer, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5254.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to this proposed rule and the direct final rule in the final rules section of this **Federal Register** will automatically go into effect on the date specified in that rule. If significant adverse comments are timely received on any provision, that provision of the direct final rule will be withdrawn and all public comment received on that provision will be addressed in a subsequent final rule based on the relevant portions of this proposed rule. Because the Agency will not institute a second comment period on this proposed rule, any parties interested in commenting should do so during this comment period.

For further supplemental information, the detailed rationale, and the rule provisions, see the information provided in the direct final rule in the