

(ii) If the affected area source is not located within any UA plus offset and UC boundary, as defined in § 63.761, the compliance date is January 5, 2009.

(6) The owner or operator of an affected area source that is not located in an Urban-1 county, as defined in § 63.761, the construction or reconstruction of which commences on or after July 8, 2005, shall achieve compliance with the provisions of this subpart immediately upon initial startup or January 3, 2007, whichever date is later.

(7) Each affected existing small glycol dehydration unit, as defined in § 63.761, located at a major source, that commenced construction before August 23, 2011, must achieve compliance no later than October 15, 2015, except as provided in § 63.6(i).

(8) Each affected new small glycol dehydration unit, as defined in § 63.761, located at a major source, that commenced construction on or after August 23, 2011, must achieve compliance immediately upon initial startup or October 15, 2012, whichever is later.

(9) A production field facility, as defined in § 63.761, constructed on or before August 23, 2011, that was previously determined to be an area source but becomes a major source (as defined in paragraph 3 of the major source definition in § 63.761) on the October 15, 2012 must achieve compliance no later than October 15, 2015, except as provided in § 63.6(i).

(g) The following provides owners or operators of an affected source at a major source with information on overlap of this subpart with other regulations for equipment leaks. The owner or operator of an affected source at a major source shall document that they are complying with other regulations by keeping the records specified in § 63.774(b)(9).

(1) [Reserved]

(2) After the compliance dates specified in paragraph (f) of this section, ancillary equipment and compressors that are subject to this subpart and are also subject to and controlled under the provisions of 40 CFR part 61, subpart V, are only required to comply with the requirements of 40 CFR part 61, subpart V.

(3) After the compliance dates specified in paragraph (f) of this section, an-

illary equipment and compressors that are subject to this subpart and are also subject to and controlled under the provisions of 40 CFR part 63, subpart H, are only required to comply with the requirements of 40 CFR part 63, subpart H.

(h) An owner or operator of an affected source that is a major source or is located at a major source and is subject to the provisions of this subpart is also subject to 40 CFR part 70 or part 71 operating permit requirements. Unless otherwise required by law, the owner or operator of an area source subject to the provisions of this subpart is exempt from the permitting requirements established by 40 CFR part 70 or 40 CFR part 71.

[64 FR 32628, June 17, 1999, as amended at 66 FR 34550, June 29, 2001; 72 FR 36, Jan. 3, 2007; 77 FR 49568, Aug. 16, 2012]

#### § 63.761 Definitions.

All terms used in this subpart shall have the meaning given them in the Clean Air Act (Act), subpart A of this part (General Provisions), and in this section. If the same term is defined in subpart A and in this section, it shall have the meaning given in this section for purposes of this subpart.

*Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

*Alaskan North Slope* means the approximately 180,000 square kilometer area (69,000 square mile area) extending from the Brooks Range to the Arctic Ocean.

*Ancillary equipment* means any of the following pieces of equipment: pumps, pressure relief devices, sampling connection systems, open-ended valves, or lines, valves, flanges, or other connectors.

*API gravity* means the weight per unit volume of hydrocarbon liquids as measured by a system recommended by the American Petroleum Institute (API) and is expressed in degrees.

*Associated equipment*, as used in this subpart and as referred to in section 112(n)(4) of the Act, means equipment

associated with an oil or natural gas exploration or production well, and includes all equipment from the wellbore to the point of custody transfer, except glycol dehydration units and storage vessels.

*Black oil* means hydrocarbon (petroleum) liquid with an initial producing gas-to-oil ratio (GOR) less than 0.31 cubic meters per liter and an API gravity less than 40 degrees.

*Boiler* means an enclosed device using controlled flame combustion and having the primary purpose of recovering and exporting thermal energy in the form of steam or hot water. Boiler also means any industrial furnace as defined in 40 CFR 260.10.

*BTEX* means benzene, toluene, ethyl benzene and xylene.

*Closed-vent system* means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and if necessary, flow inducing devices that transport gas or vapor from an emission point to one or more control devices. If gas or vapor from regulated equipment is routed to a process (e.g., to a fuel gas system), the conveyance system shall not be considered a closed-vent system and is not subject to closed-vent system standards.

*Combustion device* means an individual unit of equipment, such as a flare, incinerator, process heater, or boiler, used for the combustion of organic HAP emissions.

*Condensate* means hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature, pressure, or both, and remains liquid at standard conditions, as specified in § 63.2.

*Continuous recorder* means a data recording device that either records an instantaneous data value at least once every hour or records hourly or more frequent block average values.

*Control device* means any equipment used for recovering or oxidizing HAP or volatile organic compound (VOC) vapors. Such equipment includes, but is not limited to, absorbers, carbon adsorbers, condensers, incinerators, flares, boilers, and process heaters. For the purposes of this subpart, if gas or vapor from regulated equipment is used, reused (i.e., injected into the

flame zone of an enclosed combustion device), returned back to the process, or sold, then the recovery system used, including piping, connections, and flow inducing devices, is not considered to be a control device or closed-vent system.

*Cover* means a device which is placed on top of or over a material such that the entire surface area of the material is enclosed and sealed. A cover may have openings (such as access hatches, sampling ports, and gauge wells) if those openings are necessary for operation, inspection, maintenance, or repair of the unit on which the cover is installed, provided that each opening is closed and sealed when the opening is not in use. In addition, a cover may have one or more safety devices. Examples of a cover include, but are not limited to, a fixed-roof installed on a tank, an external floating roof installed on a tank, and a lid installed on a drum or other container.

*Custody transfer* means the transfer of hydrocarbon liquids or natural gas: after processing and/or treatment in the producing operations, or from storage vessels or automatic transfer facilities or other such equipment, including product loading racks, to pipelines or any other forms of transportation. For the purposes of this subpart, the point at which such liquids or natural gas enters a natural gas processing plant is a point of custody transfer.

*Equipment leaks* means emissions of HAP from ancillary equipment (as defined in this section) and compressors.

*Facility* means any grouping of equipment where hydrocarbon liquids are processed, upgraded (i.e., remove impurities or other constituents to meet contract specifications), or stored prior to the point of custody transfer; or where natural gas is processed, upgraded, or stored prior to entering the natural gas transmission and storage source category. For the purpose of a major source determination, facility (including a building, structure, or installation) means oil and natural gas production and processing equipment that is located within the boundaries of an individual surface site as defined in this section. Equipment that is part of a facility will typically be located

within close proximity to other equipment located at the same facility. Pieces of production equipment or groupings of equipment located on different oil and gas leases, mineral fee tracts, lease tracts, subsurface or surface unit areas, surface fee tracts, surface lease tracts, or separate surface sites, whether or not connected by a road, waterway, power line or pipeline, shall not be considered part of the same facility. Examples of facilities in the oil and natural gas production source category include, but are not limited to, well sites, satellite tank batteries, central tank batteries, a compressor station that transports natural gas to a natural gas processing plant, and natural gas processing plants.

*Field natural gas* means natural gas extracted from a production well prior to entering the first stage of processing, such as dehydration.

*Fixed-roof* means a cover that is mounted on a storage vessel in a stationary manner and that does not move with fluctuations in liquid level.

*Flame zone* means the portion of the combustion chamber in a combustion device occupied by the flame envelope.

*Flare* means a thermal oxidation system using an open flame (*i.e.*, without enclosure).

*Flash tank*. See the definition for gas-condensate-glycol (GCG) separator.

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

*Gas-condensate-glycol (GCG) separator* means a two- or three-phase separator through which the "rich" glycol stream of a glycol dehydration unit is passed to remove entrained gas and hydrocarbon liquid. The GCG separator is commonly referred to as a flash separator or flash tank.

*Gas-to-oil ratio (GOR)* means the number of standard cubic meters of gas produced per liter of crude oil or other hydrocarbon liquid.

*Glycol dehydration unit* means a device in which a liquid glycol (including, but not limited to, ethylene glycol, diethylene glycol, or triethylene glycol) absorbent directly contacts a natural gas stream and absorbs water in a

contact tower or absorption column (absorber). The glycol contacts and absorbs water vapor and other gas stream constituents from the natural gas and becomes "rich" glycol. This glycol is then regenerated in the glycol dehydration unit reboiler. The "lean" glycol is then recycled.

*Glycol dehydration unit baseline operations* means operations representative of the large glycol dehydration unit operations as of June 17, 1999 and the small glycol dehydrator unit operations as of August 23, 2011. For the purposes of this subpart, for determining the percentage of overall HAP emission reduction attributable to process modifications, baseline operations shall be parameter values (including, but not limited to, glycol circulation rate or glycol-HAP absorbency) that represent actual long-term conditions (*i.e.*, at least 1 year). Glycol dehydration units in operation for less than 1 year shall document that the parameter values represent expected long-term operating conditions had process modifications not been made.

*Glycol dehydration unit process vent* means the glycol dehydration unit reboiler vent and the vent from the GCG separator (flash tank), if present.

*Glycol dehydration unit reboiler vent* means the vent through which exhaust from the reboiler of a glycol dehydration unit passes from the reboiler to the atmosphere or to a control device.

*Hazardous air pollutants* or *HAP* means the chemical compounds listed in section 112(b) of the Clean Air Act. All chemical compounds listed in section 112(b) of the Act need to be considered when making a major source determination. Only the HAP compounds listed in Table 1 of this subpart need to be considered when determining compliance.

*Hydrocarbon liquid* means any naturally occurring, unrefined petroleum liquid.

*In VHAP service* means that a piece of ancillary equipment or compressor either contains or contacts a fluid (liquid or gas) which has a total volatile HAP (VHAP) concentration equal to or greater than 10 percent by weight as determined according to the provisions of § 63.772(a).

*In wet gas service* means that a piece of equipment contains or contacts the field gas before the extraction of natural gas liquids.

*Incinerator* means an enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section is not physically formed into one manufactured or assembled unit with the combustion section; rather, the energy recovery section is a separate section following the combustion section and the two are joined by ducts or connections carrying flue gas. The above energy recovery section limitation does not apply to an energy recovery section used solely to preheat the incoming vent stream or combustion air.

*Initial producing GOR* means the producing standard cubic meters of gas per liter at the time that the reservoir pressure is above the bubble point pressure (or dewpoint pressure for a gas).

*Initial startup* means the first time a new or reconstructed source begins production. For the purposes of this subpart, initial startup does not include subsequent startups (as defined in this section) of equipment, for example, following malfunctions or shutdowns.

*Large glycol dehydration unit* means a glycol dehydration unit with an actual annual average natural gas flowrate equal to or greater than 85 thousand standard cubic meters per day and actual annual average benzene emissions equal to or greater than 0.90 Mg/yr, determined according to §63.772(b). A glycol dehydration unit complying with the 0.9 Mg/yr control option under §63.765(b)(1)(ii) is considered to be a large dehydrator.

*Major source*, as used in this subpart, shall have the same meaning as in §63.2, except that:

(1) Emissions from any oil or gas exploration or production well (with its associated equipment, as defined in this section), and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units to determine whether such emission points or stations are major sources,

even when emission points are in a contiguous area or under common control;

(2) Emissions from processes, operations, or equipment that are not part of the same facility, as defined in this section, shall not be aggregated; and

(3) For facilities that are production field facilities, only HAP emissions from glycol dehydration units and storage vessels shall be aggregated for a major source determination. For facilities that are not production field facilities, HAP emissions from all HAP emission units shall be aggregated for a major source determination.

*Natural gas* means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth's surface. The principal hydrocarbon constituent is methane.

*Natural gas liquids (NGL)* means the liquid hydrocarbons, such as ethane, propane, butane, pentane, natural gasoline, and condensate that are extracted from field natural gas.

*Natural gas processing plant* (gas plant) means any processing site engaged in the extraction of natural gas liquids from field gas, or the fractionation of mixed NGL to natural gas products, or a combination of both.

*No detectable emissions* means no escape of HAP from a device or system to the atmosphere as determined by:

(1) Instrument monitoring results in accordance with the requirements of §63.772(c); and

(2) The absence of visible openings or defects in the device or system, such as rips, tears, or gaps.

*Operating parameter value* means a minimum or maximum value established for a control device or process parameter which, if achieved by itself or in combination with one or more other operating parameter values, indicates that an owner or operator has complied with an applicable operating parameter limitation, over the appropriate averaging period as specified in §63.772(f) or (g).

*Operating permit* means a permit required by 40 CFR part 70 or part 71.

*Organic monitoring device* means an instrument used to indicate the concentration level of organic compounds exiting a control device based on a detection principle such as infra-red,

photoionization, or thermal conductivity.

*Primary fuel* means the fuel that provides the principal heat input (i.e., more than 50 percent) to the device. To be considered primary, the fuel must be able to sustain operation without the addition of other fuels.

*Process heater* means an enclosed device using a controlled flame, the primary purpose of which is to transfer heat to a process fluid or process material that is not a fluid, or to a heat transfer material for use in a process (rather than for steam generation).

*Produced water* means water that is extracted from the earth from an oil or natural gas production well, or that is separated from crude oil, condensate, or natural gas after extraction.

*Production field facilities* means those facilities located prior to the point of custody transfer.

*Production well* means any hole drilled in the earth from which crude oil, condensate, or field natural gas is extracted.

*Reciprocating compressor* means a piece of equipment that increases the pressure of a process gas by positive displacement, employing linear movement of the drive shaft.

*Responsible official* means one of the following:

(1) For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the permitting authority;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, State, Federal, or other public agency: Either a

principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(4) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under part 70.

*Safety device* means a device that meets both of the following conditions: it is not used for planned or routine venting of liquids, gases, or fumes from the unit or equipment on which the device is installed; and it remains in a closed, sealed position at all times except when an unplanned event requires that the device open for the purpose of preventing physical damage or permanent deformation of the unit or equipment on which the device is installed in accordance with good engineering and safety practices for handling flammable, combustible, explosive, or other hazardous materials. Examples of unplanned events which may require a safety device to open include failure of an essential equipment component or a sudden power outage.

*Shutdown* means for purposes including, but not limited to, periodic maintenance, replacement of equipment, or repair, the cessation of operation of a glycol dehydration unit, or other affected source under this subpart, or equipment required or used solely to comply with this subpart.

*Small glycol dehydration unit* means a glycol dehydration unit, located at a major source, with an actual annual average natural gas flowrate less than 85 thousand standard cubic meters per day or actual annual average benzene emissions less than 0.90 Mg/yr, determined according to § 63.772(b).

*Startup* means the setting into operation of a glycol dehydration unit, or other affected equipment under this subpart, or equipment required or used to comply with this subpart. Startup includes initial startup and operation

solely for the purpose of testing equipment.

*Storage vessel* means a tank or other vessel that is designed to contain an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water and that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) that provide structural support. The following process units are not considered storage vessels: Surge control vessels and knockout vessels.

*Storage vessel with the potential for flash emissions* means any storage vessel that contains a hydrocarbon liquid with a stock tank GOR equal to or greater than 0.31 cubic meters per liter and an API gravity equal to or greater than 40 degrees and an actual annual average hydrocarbon liquid throughput equal to or greater than 79,500 liters per day. Flash emissions occur when dissolved hydrocarbons in the fluid evolve from solution when the fluid pressure is reduced.

*Surface site* means any combination of one or more graded pad sites, gravel pad sites, foundations, platforms, or the immediate physical location upon which equipment is physically affixed.

*Tank battery* means a collection of equipment used to separate, treat, store, and transfer crude oil, condensate, natural gas, and produced water. A tank battery typically receives crude oil, condensate, natural gas, or some combination of these extracted products from several production wells for accumulation and separation prior to transmission to a natural gas plant or petroleum refinery. A tank battery may or may not include a glycol dehydration unit.

*Temperature monitoring device* means an instrument used to monitor temperature and having a minimum accuracy of  $\pm 2$  percent of the temperature being monitored expressed in  $^{\circ}\text{C}$ , or  $\pm 2.5$   $^{\circ}\text{C}$ , whichever is greater. The temperature monitoring device may measure temperature in degrees Fahrenheit or degrees Celsius, or both.

*Total organic compounds* or *TOC*, as used in this subpart, means those compounds which can be measured according to the procedures of Method 18, 40 CFR part 60, appendix A.

*UA plus offset and UC* is defined as the area occupied by each urbanized area, each urban cluster that contains at least 10,000 people, and the area located two miles or less from each urbanized area boundary.

*Urban-1 County* is defined as a county that contains a part of a Metropolitan Statistical Area with a population greater than 250,000, based on the Office of Management and Budget's *Standards for defining Metropolitan and Micropolitan Statistical Areas* (December 27, 2000), and Census 2000 Data released by the U.S. Census Bureau.

*Urbanized area* refers to Census 2000 Urbanized Area, which is defined in the *Urban Area Criteria for Census 2000* (March 15, 2002). Essentially, an urbanized area consists of densely settled territory with a population of at least 50,000 people.

*Urban cluster* refers to a Census 2000 Urban Cluster, which is defined in the *Urban Area Criteria for Census 2000* (March 15, 2002). Essentially, an urban cluster consists of densely settled territory with at least 2,500 people but fewer than 50,000 people.

*Volatile hazardous air pollutant concentration* or *VHAP concentration* means the fraction by weight of all HAP contained in a material as determined in accordance with procedures specified in § 63.772(a).

[64 FR 32628, June 17, 1999, as amended at 66 FR 34551, June 29, 2001; 72 FR 37, Jan. 3, 2007; 77 FR 49569, Aug. 16, 2012]

**§ 63.762 Affirmative defense for violations of emission standards during malfunction.**

(a) The provisions set forth in this subpart shall apply at all times.

(b)–(c) [Reserved]

(d) In response to an action to enforce the standards set forth in this subpart, you may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined in 40 CFR 63.2. Appropriate penalties may be assessed; however, if you fail to meet your burden of proving all of the requirements in the affirmative defense, the affirmative defense shall not be available for claims for injunctive relief.