

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[AD-FRL-5658-5]

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; Rule Clarifications**

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

**ACTION:** Final rule; amendments.

**SUMMARY:** On April 22, 1994 and June 6, 1994, the EPA issued 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. This rule is commonly known as the Hazardous Organic NESHAP or the HON. In June 1994, petitions for review of the April 1994 rule were filed in the U.S. Court of Appeals for the District of Columbia Circuit. The petitioners raised over 75 technical issues and concerns with drafting clarity of the rule. On August 26, 1996, the EPA proposed correcting amendments to the rule to address the petitioners' issues. Among the proposed amendments were proposed revisions that would eliminate the need for filing some implementation plans that would otherwise be due December 31, 1996, and would allow the filing of requests for compliance extensions up to four months before the April 1997 compliance date. Today's action takes final action on those proposed amendments.

These amendments to the rule will not change the basic control requirements of the rule or the level of health protection it provides. The rule requires new and existing major sources to control emissions of hazardous air pollutants (HAP) to the level reflecting application of the maximum achievable control technology. Final action on the rest of the amendments proposed on August 26, 1996 will be taken in a separate Federal Register document at a later date.

**EFFECTIVE DATE:** December 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** For general questions, contact Dr. Janet S. Meyer; Coatings and Consumer Products Group; (919) 541-5254 or Mary Tom

Kissell; Waste and Chemical Processes Group; (919) 541-4516. The mailing address for the contacts is Emission Standards Division (MD-13); U.S. Environmental Protection Agency; Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:**

**I. Regulated Entities and Background Information**

**A. Regulated Entities**

The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry .....	Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in Table 1 of 40 CFR Part 63, subpart F.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in the revisions to the regulation affected by this action. Entities potentially regulated by the HON are those which produce as primary intended products any of the chemicals listed in Table 1 of 40 CFR Part 63, subpart F and are located at facilities that are major sources as defined in Section 112 of the Clean Air Act (CAA). To determine whether your facility is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR Section 63.100. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** Section.

**B. Background on Rule**

On April 22, 1994 (59 FR 19402) and June 6, 1994 (59 FR 29196), the EPA published in the Federal Register the NESHAP for the 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 and are commonly referred to as the hazardous organic NESHAP, or the HON. Since the April 22, 1994 notice, there have been several amendments to clarify various aspects of the rule. Readers should see the following Federal Register notices for more information: September 20, 1994 (59 FR 48175); October 24, 1994 (59 FR 53359); October 28, 1994 (59 FR 54131); January 27, 1995 (60 FR 5321); April 10, 1995 (60 FR 18020); April 10, 1995 (60 FR

18026); December 12, 1995 (60 FR 63624); February 29, 1996 (61 FR 7716); June 20, 1996 (61 FR 31435); and August 26, 1996 (61 FR 43698).

In June 1994, the Chemical Manufacturers Association (CMA) and Dow Chemical Company filed petitions for review of the promulgated rule in the U.S. Court of Appeals for the District of Columbia Circuit, *Chemical Manufacturers Association v. EPA*, 94-1463 and 94-1464 (D.C. Cir.) and *Dow Chemical Company v. EPA*, 94-1465 (D.C. Cir.). The petitioners raised over 75 technical issues on the rule's structure and applicability. Issues were raised regarding details of the technical requirements, drafting clarity, and structural errors in the drafting of certain sections of the rule. On August 26, 1996, the EPA proposed clarifying and correcting amendments to subparts F, G, H, and I of Part 63 to address the issues raised by CMA and Dow on the April 1994 rule.

In the August 26, 1996 notice, the EPA committed to taking final action on some portions of the proposed amendments to the rule as soon as possible after the close of the comment period in order to give sources as much lead time as possible. The comment period on the August 26, 1996 proposal ended on September 25, 1996. With today's action, the EPA is taking final action on those portions of the proposed amendments that would eliminate the need for filing some implementation plans that would otherwise be due December 31, 1996, and would allow the filing of requests for compliance extensions up to four months before the April 1997 compliance date.

**C. Public Comment on the August 26, 1996 Proposal**

Eighteen comment letters were received on the August 26, 1996 notice of proposed changes to the rule. All comment letters received were from industry representatives and trade associations. All comment letters were supportive of the proposed amendments pertaining to the requirements for implementation plans and to the deadline for filing of compliance extension requests. A few of these comment letters also included suggested editorial revisions to further clarify some aspects of these proposed amendments. The EPA considered these suggestions and, where appropriate, made changes to the proposed amendments.

**D. Judicial Review**

Under Section 307(b)(1) of the CAA, judicial review of this final action is available only on the filing of a petition

for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under Section 307(b)(2) of the CAA, the requirements that are subject to today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

## II. Summary of Comments and Amendments to the Rule

### A. Rule Changes To Eliminate the Need for Filing Implementation Plans

#### 1. Rule Changes To Remove Requirement for Filing Implementation Plans

On August 26, 1996 the EPA proposed to remove the requirement for submittal of implementation plans for existing sources' emission points that are not included in an emissions average. Under the 1994 final rule, owners or operators who have not yet submitted an operating permit application with the information specified in § 63.152(e) were required to submit by December 31, 1996, an implementation plan for all points not included in an emissions average. The proposed amendments to the rule to eliminate this requirement specified that this information would be provided in an operating permit application or as otherwise specified by the permitting authority.

All comments on the proposed amendments supported the proposal to remove the redundant reporting requirement. Commenters also recommended that § 63.151(a)(2) should be revised to clarify that new sources are required to submit an implementation plan unless an operating permit application containing the information specified in § 63.152(e) has been submitted. This correction was recommended in order to make this paragraph consistent with § 63.151(c) and thereby eliminate the potential for misunderstandings. The EPA agrees that the suggested correction of § 63.151(a)(2) is appropriate and this correction is included in the final amendments to this paragraph. No editorial revisions were suggested for any of the other paragraphs affected by this change to the rule.

Although no public comments were received requesting revisions to other paragraphs affected by this group of amendments, the EPA has also corrected drafting errors in proposed § 63.120(d)(2) and § 63.151(c). In today's amendments, in addition to revising § 63.120(d)(2) to remove the reference to the Implementation Plan, the EPA is revising § 63.120(d)(2) to specify that the monitoring plan for storage vessels

complying using a control device must be submitted as part of the Notification of Compliance Status. The rule amendments proposed on August 26, 1996, required that the monitoring plan be submitted, but did not specify when the monitoring plan had to be submitted. The need to specify a submittal date was inadvertently overlooked when the revisions to remove the implementation plan requirement were considered. Because the monitoring plan specifies the compliance monitoring requirements for storage vessels complying using a control device, the EPA considers the Notification of Compliance Status to be the most appropriate report for this information. This correction also makes paragraph § 63.120(d)(2) consistent with paragraph § 63.120(d)(3) which requires that the operating range for the monitored parameter be reported in the Notification of Compliance Status. The EPA also made minor editorial revisions to § 63.151(c) to improve the organization of this paragraph. The specific changes made were to remove redundant text in paragraph (c)(1) and to redesignate paragraph (c)(1)(i) as (c)(1). Under this reorganized structure, paragraph (c)(1)(ii) is no longer reserved.

The other proposed changes to remove the requirement to file an implementation plan are being added to the final rule without change. Today's amendments revise all provisions that require filing of implementation plans by December 31, 1996. Some provisions in §§ 63.143, 63.146, and 63.147 still refer to the implementation plan. These sections are part of the wastewater provisions in subpart G which the EPA anticipates will be final no later than December 31, 1996.

#### 2. Associated Changes to Rule, § 63.100(i)

In the August notice, the EPA proposed to revise paragraph (i) to include provisions to address the assignment of dedicated distillation units and clarify that the assignment procedure in this paragraph applies to distillation units shared among several processes. Revisions were also proposed to paragraph (i) to clarify the wording of the requirement to reassess the assignment of the equipment whenever there is a change in the use of the equipment.

Today's amendments include these clarifying changes to § 63.100(i). These changes are being made at this time because it is not practical to remove the requirement for submittal of implementation plans from these provisions without also finalizing these

changes. Furthermore, there were no adverse or editorial comments on the proposed revisions to paragraph (i). Thus, the proposed changes to paragraph (i) are being added to the final rule without change.

### B. Timing of Compliance Extension Requests

The April 22, 1994 rule required that requests for compliance extensions be submitted one year prior to the otherwise applicable compliance date. In the August 26, 1996 Federal Register, the EPA proposed to revise this requirement, which is in § 63.151(a)(6)(i), to allow submittal of requests up to 120 days prior to the compliance date. The EPA also proposed to add a new paragraph (iv) to § 63.151(a)(6) that would allow requests during the last 120 days before the compliance date if the need arose during that 120 days and if the need was due to circumstances beyond the reasonable control of the owner or operator. All comments were supportive of these proposed amendments and of the rationale for these changes. None of the comments included recommendations for editorial changes to clarify these provisions. Thus, the proposed amendments are being added to the rule without change.

One commenter did, however, encourage the EPA to refrain from taking enforcement actions against applicants during the EPA's review of the requested compliance extension. While the rule is silent on this issue, the EPA will bear the commenter's concern in mind in reviewing such applications. It is generally not the EPA's practice to take enforcement action against a source that has timely filed an extension request until the request has been acted on negatively.

### C. Correction to § 63.106(a)

In the August notice, the EPA proposed to correct the delegation of authority citation in § 63.106(a) to reference Section 112(l), not Section 112(d), of the CAA. No comments were received on this proposed change. Thus, the proposed change to § 63.106(a) is being added to the final rule without change.

## III. Administrative Requirements

### A. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the rule the Provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0282. An Information Collection

Request (ICR) document was prepared by EPA (ICR No. 1414.02) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460 or by calling (202) 260-2740.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The changes listed in this Rule: Amendments to the NESHAP will have no impact on the information collection burden estimates previously made. Further, the changes remove redundant reporting requirement, do not impose additional ones, and appropriately revises the deadline for submitting compliance extension requests for this rule. Consequently, the ICR has not been revised for this rule.

**B. Executive Order 12866 Review**

Under Executive Order 12866, the EPA must determine whether the proposed regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

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

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

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Hon rule promulgated on April 22, 1994 was considered "significant" under Executive Order 12866, and a regulatory impact analysis was prepared. The amendments issued today remove a redundant reporting requirement and revise the deadline for submitting compliance extension requests to a date more appropriate for this rule. These amendments do not add any new control requirements. Therefore, this regulatory action is considered "not significant."

**C. Regulatory Flexibility**

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. See the April 22, 1994 Federal Register (59 FR 19449) for the basis for this determination. The changes to the rule remove a reporting requirement and provide additional time to request compliance extensions. Therefore, the changes do not create a burden for any of the regulated entities.

**D. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**E. Unfunded Mandates Reform Act**

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate or to the private sector, of \$100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

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

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

Dated: November 27, 1996.

Carol M. Browner,  
Administrator.

Chapter I, Part 63 of the Code of Federal Regulations is amended as follows:

**PART 63—[AMENDED]**

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

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

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

2. Section 63.100 is amended by revising paragraph (d)(3)(ii); revising the last sentence in paragraph (g)(2)(iii); revising the last sentence of paragraph (h)(2)(iv); revising paragraph (i); revising paragraph (l)(3)(ii)(B); revising the second and third sentences in paragraph (l)(4)(iii) introductory text and revising paragraph (l)(4)(iii)(A); and revising paragraph (m)(2) to read as follows:

**§ 63.100 Applicability and designation of source.**

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(ii) The determination of applicability of this subpart to chemical manufacturing process units that are designed and operated as flexible operation units shall be reported as part of an operating permit application or as otherwise specified by the permitting authority.

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(iii) \* \* \* This determination shall be reported as part of an operating permit application or as otherwise specified by the permitting authority.

\* \* \* \* \*

(h) \* \* \*

(2) \* \* \*

(iv) \* \* \* This determination shall be reported as part of an operating permit application or as otherwise specified by the permitting authority.

\* \* \* \* \*

(i) Except as provided in paragraph (i)(4) of this section, the owner or operator shall follow the procedures specified in paragraphs (i)(1) through (i)(3) and (i)(5) of this section to determine whether the vent(s) from a distillation unit is part of the source to which this subpart applies.

(1) Where a distillation unit is dedicated to a chemical manufacturing process unit, the distillation column shall be considered part of that chemical manufacturing process unit.

(i) If the chemical manufacturing process unit is subject to this subpart according to the criteria specified in paragraph (b) of this section, then the distillation unit is part of the source to which this subpart applies.

(ii) If the chemical manufacturing process unit is not subject to this subpart according to the criteria specified in paragraph (b) of this section, then the distillation unit is not part of the source to which this subpart applies.

(2) If a distillation unit is not dedicated to a single chemical manufacturing process unit, then the applicability of this subpart and subpart G of this part shall be determined according to the provisions in paragraphs (i)(2)(i) through (i)(2)(iv) of this section.

(i) If the greatest input to the distillation unit is from a chemical manufacturing process unit located on the same plant site, then the distillation unit shall be assigned to that chemical manufacturing process unit.

(ii) If the greatest input to the distillation unit is provided from a chemical manufacturing process unit that is not located on the same plant site, then the distillation unit shall be assigned to the chemical manufacturing process unit located at the same plant site that receives the greatest amount of material from the distillation unit.

(iii) If a distillation unit is shared among chemical manufacturing process units so that there is no single predominant use as described in paragraphs (i)(2)(i) and (i)(2)(ii) of this section, and at least one of those chemical manufacturing process units is subject to this subpart, the distillation unit shall be assigned to the chemical manufacturing process unit that is subject to this subpart. If more than one chemical manufacturing process unit is subject to this subpart, the owner or operator may assign the distillation unit to any of the chemical manufacturing process units subject to this subpart.

(iv) If the predominant use of a distillation unit varies from year to year, then the applicability of this subpart shall be determined based on the utilization that occurred during the year preceding April 22, 1994. This determination shall be included as part of an operating permit application or as otherwise specified by the permitting authority.

(3) If the chemical manufacturing process unit to which the distillation unit is assigned is subject to this subpart, then each vent from the individual distillation unit shall be considered separately to determine whether it is a process vent (as defined

in § 63.101 of this subpart). Each vent that is a process vent is part of the source to which this subpart applies.

(4) If the distillation unit is part of one of the chemical manufacturing process units listed in paragraphs (i)(4)(i) through (i)(4)(iii) of this section, then each vent from the individual distillation unit shall be considered separately to determine whether it is a process vent (as defined in § 63.101 of this subpart). Each vent that is a process vent is part of the source to which this subpart applies:

- (i) The Aromex unit that produces benzene, toluene, and xylene;
- (ii) The unit that produces hexane; or
- (iii) The unit that produces cyclohexane.

(5) If a distillation unit that was dedicated to a single chemical manufacturing process unit, or that was part of a chemical manufacturing unit identified in paragraphs (i)(4)(i) through (i)(4)(iii) of this section, begins to serve another chemical manufacturing process unit, or if applicability was determined under the provisions of paragraphs (i)(2)(i) through (i)(2)(iv) of this section and there is a change so that the predominant use may reasonably have changed, the owner or operator shall reevaluate the applicability of this subpart to the distillation unit.

\* \* \* \* \*

- (1) \* \* \*
- (3) \* \* \*
- (ii) \* \* \*

(B) Changes that meet the criteria in § 63.151(j) of subpart G of this part, unless the information has been submitted in an operating permit application or amendment;

\* \* \* \* \*

- (4) \* \* \*

(iii) \* \* \* A change to an existing chemical manufacturing process unit shall be subject to the reporting requirements for existing sources, including but not limited to, the reports listed in paragraphs (1)(4)(iii)(A) through (E) of this section if the change meets the criteria specified in § 63.118(g), (h), (i), or (j) of subpart G of this part for process vents or the criteria in § 63.155(i) or (j) of subpart G of this part. The applicable reports include, but are not limited to:

(A) Reports specified in § 63.151(i) and (j) of subpart G of this part, unless the information has been submitted in an operating permit application or amendment;

\* \* \* \* \*

- (m) \* \* \*

(2) The compliance schedule shall be submitted with the report required in § 63.151(i)(2) of subpart G of this part

for emission points included in an emissions average or § 63.151(j)(1) or subpart G of this part for emission points not in an emissions average, unless the compliance schedule has been submitted in an operating permit application or amendment.

\* \* \* \* \*

3. Section 63.102 is amended by revising paragraph (c) introductory text and removing and reserving paragraph (c)(2) to read as follows:

**§ 63.102 General standards.**

\* \* \* \* \*

(c) Each owner or operator of a source subject to this subpart shall obtain a permit under 40 CFR part 70 or part 71 from the appropriate permitting authority by the date determined by 40 CFR part 70 or part 71, as appropriate.

\* \* \* \* \*

(2) [Reserved]

\* \* \* \* \*

4. Section 63.106 is amended by revising paragraph (a) to read as follows:

**§ 63.106 Delegation of authority.**

(a) In delegating implementation and enforcement authority to a State under Section 112(l) of the CAA, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

\* \* \* \* \*

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

5. Section 63.110 is amended by revising paragraphs (e)(2)(ii) introductory text and (f)(4)(ii) to read as follows:

**§ 63.110 Applicability.**

\* \* \* \* \*

- (e) \* \* \*

- (2) \* \* \*

(ii) The owner or operator shall submit, no later than four months before the applicable compliance date specified in § 63.100 of subpart F of this part, a request for a case-by-case determination of requirements. The request shall include the information specified in paragraphs (e)(2)(ii)(A) and (e)(2)(ii)(B) of this section.

\* \* \* \* \*

- (f) \* \* \*

- (4) \* \* \*

(ii) The owner or operator may submit, no later than four months before the applicable compliance date specified in § 63.100 of subpart F of this

part, information demonstrating how compliance with 40 CFR Part 61, subpart F, will also ensure compliance with this subpart. The information shall include a description of the testing, monitoring, reporting, and recordkeeping that will be performed.

6. Section 63.117 is amended by revising the last sentence in paragraph (e) to read as follows:

**§ 63.117 Process vents provisions—reporting and recordkeeping requirements for group and TRE determinations and performance tests.**

(e) \* \* \* The Administrator will specify appropriate reporting and recordkeeping requirements as part of the review of the permit application or by other appropriate means.

7. Section 63.120 is amended by revising the introductory text of paragraph (d)(2), revising paragraph (d)(2)(i), and revising the first sentence in paragraph (d)(3)(i) to read as follows:

**§ 63.120 Storage vessel provisions—procedures to determine compliance.**

(2) The owner or operator shall submit, as part of the Notification of Compliance Status required by § 63.151 (b) of this subpart, a monitoring plan containing the information specified in paragraph (d)(2)(i) of this section and in either (d)(2)(ii) or (d)(2)(iii) of this section.

(i) A description of the parameter or parameters to be monitored to ensure that the control device is being properly operated and maintained, an explanation of the criteria used for selection of that parameter (or parameters), and the frequency with which monitoring will be performed (e.g., when the liquid level in the storage vessel is being raised); and either

(3) \* \* \* (i) The operating range for each monitoring parameter identified in the monitoring plan. \* \* \*

8. Section 63.122 is amended by removing and reserving paragraph (a)(2) and revising paragraph (b) to read as follows:

**§ 63.122 Storage vessel provisions—reporting.**

- (a) \* \* \*
- (2) [Reserved]

(b) An owner or operator who elects to comply with § 63.119(e) of this subpart by using a closed vent system and a control device other than a flare shall submit, as part of the Monitoring Plan, the information specified in § 63.120(d)(2)(i) of this subpart and the information specified in either § 63.120(d)(2)(ii) of this subpart or § 63.120(d)(2)(iii) of this subpart.

**§ 63.123 [Amended]**

9. Section 63.123 is amended by removing and reserving paragraph (b).

10. Section 63.128 is amended by revising the introductory text in paragraph (h)(1), and revising paragraphs (h)(2) and (h)(3) to read as follows:

**§ 63.128 Transfer operations provisions—test methods and procedures.**

(1) The owner or operator shall prepare, as part of the Notification of Compliance Status required by § 63.152(b) of this subpart, a design evaluation that shall document that the control device being used achieves the required control efficiency during reasonably expected maximum loading conditions. This documentation is to include a description of the gas stream which enters the control device, including flow and organic HAP content, and the information specified in paragraphs (h)(1)(i) through (h)(1)(v) of this section, as applicable.

(2) The owner or operator shall submit, as part of the Notification of Compliance Status required by § 63.152(b) of this subpart, the operating range for each monitoring parameter identified for each control device. The specified operating range shall represent the conditions for which the control device can achieve the 98-percent-or-greater emission reduction required by § 63.126(b)(1) of this subpart.

(3) The owner or operator shall monitor the parameters specified in the Notification of Compliance Status required in § 63.152(b) of this subpart or operating permit and shall operate and maintain the control device such that the monitored parameters remain within the ranges specified in the Notification of Compliance Status, except as provided in §§ 63.152(c) and 63.152(f) of this subpart.

11. Section 63.129 is amended by revising the last sentence in paragraph (b); and revising paragraphs (e) and (f) to read as follows:

**§ 63.129 Transfer operations provisions—reporting and recordkeeping for performance tests and notification of compliance status.**

(b) \* \* \* The Administrator will specify appropriate reporting and recordkeeping requirements as part of the review of the permit application or by other appropriate means.

(e) An owner or operator meeting the requirements of § 63.128(h) of this subpart shall submit, as part of the Notification of Compliance Status required by § 63.152(b) of this subpart, the information specified in § 63.128(h)(1) of this subpart.

(f) An owner or operator meeting the requirements of § 63.128(h) of this subpart shall submit, as part of the Notification of Compliance Status required by § 63.152(b) of this subpart, the operating range for each monitoring parameter identified for each control device.

12. Section 63.151 is amended by revising the heading of the section; revising paragraph (a)(2); revising paragraph (a)(6)(i) and adding a new paragraph (a)(6)(iv); adding a new paragraph (a)(7); revising paragraphs (c) introductory text and (c)(1); revising paragraph (d)(8)(i); revising the introductory text in paragraph (e) and revising paragraph (e)(1); revising paragraph (e)(3); revising the introductory text in paragraph (f); revising paragraph (g)(1); revising paragraph (h); and revising paragraph (j) to read as follows:

**§ 63.151 Initial Notification.**

(2) An Implementation Plan for new sources subject to this subpart or for emission points to be included in an emissions average, unless an operating permit application has been submitted prior to the date the Implementation Plan is due and the owner or operator has elected to include the information specified in § 63.152(e) in that application. The submittal date and contents of the Implementation Plan are specified in paragraphs (c) and (d) of this section.

(6) \* \* \* (i) For purposes of this subpart, a request for an extension shall be submitted to the permitting authority as part of the operating permit application or as part of the Initial Notification or as a separate submittal. Requests for extensions shall be submitted no later than 120 days prior to the compliance dates specified in § 63.100(k)(2), § 63.100(l)(4), and § 63.100(m) of

subpart F of this part, except as provided for in paragraph (a)(6)(iv) of this section. The dates specified in § 63.6(i) of subpart A of this part for submittal of requests for extensions shall not apply to sources subject to this subpart G.

\* \* \* \* \*

(iv) An owner or operator may submit a compliance extension request after the date specified in paragraph (a)(6)(i) of this section provided the need for the compliance extension arose after that date and before the otherwise applicable compliance date, and the need arose due to circumstances beyond reasonable control of the owner or operator. This request shall include, in addition to the information in paragraph (a)(6)(ii) of this section, a statement of the reasons additional time is needed and the date when the owner or operator first learned of the problem.

(7) The reporting requirements for storage vessels are located in § 63.122 of this subpart.

\* \* \* \* \*

(c) Each owner or operator of an existing source with emission points that will be included in an emissions average or new source subject to this subpart must submit an Implementation Plan to the Administrator by the dates specified in paragraphs (c)(1) and (c)(2) of this section, unless an operating permit application accompanied by the information specified in § 63.152(e) of this subpart has been submitted. The Implementation Plan for emissions averaging is subject to Administrator approval.

(1) Each owner or operator of an existing source subject to this subpart who elects to comply with § 63.112 of this subpart by using emissions averaging for any emission points, and who has not submitted an operating permit application accompanied by the information specified in § 63.152(e) of this subpart at least 18 months prior to the compliance dates specified in § 63.100 of subpart F of this part, shall develop an Implementation Plan for emissions averaging. For existing sources, the Implementation Plan for those emission points to be included in an emissions average shall be submitted no later than 18 months prior to the compliance dates in § 63.100 of subpart F of this part.

\* \* \* \* \*

(d) \* \* \*  
(8) \* \* \*

(i) The information used to determine whether the wastewater stream is a Group 1 or Group 2 wastewater stream.

\* \* \* \* \*

(e) An owner or operator expressly referred to this paragraph shall report, in an Implementation Plan, operating permit application, or as otherwise specified by the permitting authority, the information listed in paragraphs (e)(1) through (e)(5) of this section.

(1) A list designating each emission point complying with §§ 63.113 through 63.149 of this subpart and whether each emission point is Group 1 or Group 2, as defined in § 63.111 of this subpart.

\* \* \* \* \*

(3) A statement that the compliance demonstration, monitoring, inspection, recordkeeping, and reporting provisions in §§ 63.113 through 63.149 of this subpart that are applicable to each emission point will be implemented beginning on the date of compliance.

\* \* \* \* \*

(f) The owner or operator who has been directed by any section of this subpart that expressly references this paragraph to set unique monitoring parameters or who requests approval to monitor a different parameter than those listed in § 63.114 for process vents, § 63.127 for transfer, or § 63.143 for process wastewater of this subpart shall submit the information specified in paragraphs (f)(1), (f)(2), and (f)(3) of this section with the operating permit application or as otherwise specified by the permitting authority.

\* \* \* \* \*

(g) \* \* \*

(1) Requests shall be included in the operating permit application or as otherwise specified by the permitting authority and shall contain the information specified in paragraphs (g)(3) through (g)(5) of this section, as applicable.

\* \* \* \* \*

(h) The owner or operator required to prepare an Implementation Plan, or otherwise required to submit a report, under paragraph (c), (d), or (e) of this section shall also submit a supplement for any additional alternative controls or operating scenarios that may be used to achieve compliance.

\* \* \* \* \*

(j) The owner or operator of a source subject to this subpart, for emission points that are not included in an emissions average, shall report to the

Administrator under the circumstances described in paragraphs (j)(1), (j)(2), and (j)(3) of this section unless the relevant information has been included and submitted in an operating permit application or amendment, or as otherwise specified by the permitting authority. The information shall be submitted within 180 calendar days after the change is made or the information regarding the change is known to the source. The update may be submitted in the next Periodic Report if the change is made after the date the Notification of Compliance Status is due.

(1) Whenever a deliberate change is made such that the group status of any emission point changes. The information submitted shall include a compliance schedule as specified in § 63.100 of subpart F of this part if the emission point becomes Group 1.

(2) Whenever an owner or operator elects to achieve compliance with this subpart by using a control technique other than that previously reported to the Administrator or to the permitting authority, or plans to monitor a different parameter, or operate a control device in a manner other than that previously reported.

(3) Whenever an emission point or a chemical manufacturing process unit is added to a source, a written addendum to the information submitted under paragraph (e) of this section containing information on the new emission point shall be submitted.

13. Section 63.152 is amended by revising paragraph (a)(2); revising paragraph (c)(4)(ii); removing paragraph (c)(5)(ii)(F); and revising the introductory text in paragraph (e) to read as follows:

**§ 63.152 General reporting and continuous records.**

\* \* \* \* \*

(a) \* \* \*

(2) An Implementation Plan described in § 63.151(c), (d), and (e) of this subpart for existing sources with emission points that are included in an emissions average or for new sources.

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(ii) Any supplements required under § 63.151(i) and (j) of this subpart,

\* \* \* \* \*

(e) An owner or operator subject to this subpart shall submit the information specified in paragraphs (e)(1) through (e)(4) of this section with the operating permit application or as otherwise specified by the permitting authority. The owner or operator shall submit written updates as amendments to the operating permit application on the schedule and under the circumstances described in § 63.151(j) of this subpart. Notwithstanding, if the owner or operator has an operating permit under 40 CFR part 70 or 71, the owner or operator shall follow the schedule and format required by the permitting authority.

\* \* \* \* \*

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