

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[AD-FRL-6523-9]

RIN 2060-AH81

**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; 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 NESHP or the HON. Today's action proposes amendments to the definition of the term "process vent" and proposes to add procedures for identifying "process vents" in order to ensure consistent interpretation of the term. The EPA is also proposing revisions to several provisions to the rule to reflect the terminology used in the revised definition of process vent. These changes are being proposed to reduce the burden associated with developing operating permits for facilities subject to the rule. Today's action also proposes to add provisions to allow off-site control of process vent emissions and to add provisions for establishing a new compliance date under certain circumstances. The EPA is also proposing to add to appendix C of part 63 another procedure for use in determining compliance with

wastewater treatment requirements. The EPA is also proposing corrections and clarifications to other provisions of the rule to ensure that the rule is implemented as intended.

These proposed 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 to the level reflecting application of the maximum achievable control technology.

**DATES:** Comments must be received on or before February 22, 2000, unless a hearing is requested by January 31, 2000. If a hearing is requested, you must submit your comments on or before March 6, 2000.

**ADDRESSES:** Address your comments to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-90-19 (see docket section below), Room M-1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. If possible, please submit two copies of your written comments. You may also submit comments electronically in WordPerfect® version 5.1, 6.1, or Corel 8 file format (or ASCII) by electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov.

**Public Hearing.** If a public hearing is held, EPA will hold the hearing 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 Janet Eck, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-7946.

**Docket.** Docket No. A-90-19 contains the supporting information for the original NESHP and this action. You may inspect this docket and copy materials between 8:00 a.m. and 5:30 p.m., Monday through Friday. The EPA's Air and Radiation Docket and Information Center is located at

Waterside Mall, Room M-1500, first floor, 401 M Street, SW, Washington, DC 20460. The telephone number for the Air Docket and Information Center is (202) 260-7548 or 260-7549. You may have to pay a reasonable fee for copying materials.

**FOR FURTHER INFORMATION CONTACT:** Dr. Janet S. Meyer, Coatings and Consumer Products Group, at (919) 541-5254 (meyer.jan@epamail.epa.gov). The mailing address for the contact is Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:** *Docket.* The docket is an organized file of the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file, because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record for judicial review. (See the Act section 307(d)(7)(A).)

*Electronic Comments.* If you submit comments by e-mail, your comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. You may also submit comments on a diskette in WordPerfect® version 5.1, 6.1, or Corel 8 file format (or ASCII). You must identify the docket number A-90-19 at the beginning of your comments. You should not submit confidential business information (CBI) through e-mail. You may file electronic comments online at many Federal depository libraries.

*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. This action is expected to be of interest to owners and operators subject to this rule who have process vents that may be

affected by these rule amendments and to those owners or operators who are sending vent streams (gas streams) to another facility for disposal. 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 (Act). Potentially regulated entities generally are companies that manufacture industrial organic chemicals and cyclic organic crude and intermediates. To determine whether your facility is

regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR 63.100. If you have questions regarding the applicability of this action to a particular entity, consult Janet Meyer (See **FOR FURTHER INFORMATION CONTACT**).

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

- I. Background on the Rule
- II. Proposed Process Vent Changes
  - A. Process Vent Definition and Identification of Gas Streams that Meet the Definition
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  - C. Miscellaneous Conforming Edits
- III. Off-Site Control or On-Site Third Party Control of Process Vent Emissions
- IV. Compliance Schedules
- V. Miscellaneous Corrections and Clarifications
  - A. Subpart F
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- VI. Administrative Requirements
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  - E. Unfunded Mandates Reform Act
  - F. Regulatory Flexibility/Small Business Regulatory Enforcement Fairness Act of 1996
  - G. Paperwork Reduction Act
  - H. National Technology Transfer and Advancement Act

## I. Background on the Rule

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the EPA (we) published in the **Federal Register** the 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, and are commonly referred to as the hazardous organic NESHAP, or the HON. We have published several amendments to clarify various aspects of the rule since the April 22, 1994 **Federal Register** publication of the rule. See the following **Federal Register** documents 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); August 26, 1996 (61 FR 43698);

December 5, 1996 (61 FR 64571); January 17, 1997 (62 FR 2721); August 22, 1997 (62 FR 44608); and December 9, 1998 (63 FR 67787).

In June 1994, the Chemical Manufacturers Association (CMA) and Dow Chemical Company (Dow) 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. The petitioners raised issues regarding details of the technical requirements, drafting clarity, and structural errors in the drafting of certain sections of the rule. On August 26, 1996, we 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. On December 5, 1996 and January 17, 1997, we took final action on the amendments proposed on August 26, 1996. On August 22, 1997, we proposed corrections to the definition of "enhanced biological treatment systems or enhanced biological treatment process" and conforming edits to appendix C of part 63 to reflect these changes to the definition. On December 9, 1998, we took final action on the amendments proposed on August 22, 1997.

## II. Proposed Process Vent Changes

### A. Process Vent Definition and Identification of Gas Streams that Meet the Definition

In today's amendments, we are proposing to: (1) revise the definition of the term "process vent"; and (2) add a new section 63.107 to subpart F to provide instructions for identifying gas streams that meet the definition of the term "process vent." These proposed changes are intended to make it easier to implement the rule and to ensure consistent interpretation of the term "process vent." We expect the proposed changes to reduce the burden associated with permitting facilities under the Operating Permit Program while maintaining the intended applicability of the rule.

Currently, the rule defines a "process vent" as:

\* \* \* a gas stream containing greater than 0.005 weight percent total organic hazardous air pollutants that is continuously discharged during operation of the unit from an air oxidation reactor, other reactor, or distillation unit (as defined in this section) within a chemical manufacturing process unit that meets all applicability criteria specified in § 63.100(b)(1) through (b)(3) of

this subpart. Process vents are gas streams that are discharged to the atmosphere (with or without passing through a control device) either directly or after passing through one or more recovery devices. Process vents exclude relief valve discharges, gaseous streams routed to a fuel gas system(s), and leaks from equipment regulated under subpart H of this part.

Our intent in this definition is to define a "process vent" from its point of origination within a chemical manufacturing process unit—"from an air oxidation reactor, other reactor, or distillation unit"—to where it is ultimately discharged to the atmosphere. Once a process vent is identified under the HON, applicability of control requirements to the gas stream is determined after the last recovery device (if any recovery devices are present) but prior to the inlet of any control device that is present and prior to release to the atmosphere. The objective of this approach is to ensure that applicability of the rule remains with the operation creating the gas stream.

In recent months, industry representatives have stated that they understand the definition to define a process vent as the discharge point to the atmosphere. These industry representatives have raised concerns that our interpretation of the definition would significantly alter the information that must be submitted as part of an operating permit application and included in an operating permit. Specifically, industry representatives have expressed concerns that because a process vent is an "emission point," the operating permit rule would require submittal of information on all gas streams originating from HON process units and all processes receiving these gas streams. Because HON process units frequently send gas streams to numerous other process units throughout a plant site, they have argued that it would be very burdensome to provide information on every gas stream originating from a HON process unit. Industry representatives have also questioned whether this language could result in some people classifying process equipment (such as downstream distillation units and reactors) as control equipment.

We considered the implementation issues associated with the existing definition of "process vent" and concluded that a new approach toward identification of gas streams subject to the control requirements would be appropriate. This approach consists of: (1) Defining a process vent as a discharge point instead of as a gas stream; (2) adding a section to subpart

F to enumerate characteristics of gas streams that when discharged would be subject to the process vent provisions; and (3) adding additional reporting requirements to § 63.151 and § 63.152 to ensure that the point of origination of a gas stream is identified as well as the point of discharge. This group of amendments is expected to achieve the outcome that was originally intended while addressing implementation problems.

#### 1. New Definition of Process Vent

We are proposing to revise the definition of "process vent" to read:

\* \* \* the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream if the gas stream has the characteristics specified in § 63.107(b) through (h) of this subpart or meets the criteria specified in § 63.107(i) of this subpart. For purposes of §§ 63.113 through 63.118, all references to the characteristics of a process vent (e.g., flow rate, total HAP concentration, or TRE index value) shall mean the characteristics of the gas stream.

Under this definition, the emission points that would be identified as process vents in the permit application and the operating permit would be the points of discharge to the atmosphere of a gas stream (meeting certain criteria) created by a HON chemical manufacturing process unit.

#### 2. Section 63.107—Identification of Process Vents

We are proposing to add a new section, § 63.107, to subpart F to specify the characteristics that distinguish those gas streams that were intended to be regulated as process vents from gas streams that were never intended to be regulated as process vents. In order to do this, we have identified: (1) Those characteristics that a gas stream must have in order for the discharge to be subject to the process vent provisions; (2) those characteristics that would exclude a gas stream from such applicability; and (3) criteria for prevention of circumvention. We do not intend for proposed § 63.107 to impose any recordkeeping requirement for the determination of process vents associated with chemical manufacturing process units subject to the HON. Our intent is for this section to enumerate the characteristics of gas streams that on ultimate discharge would be regulated as a process vent.

*Characteristics of Process Vents.* Proposed § 63.107 specifies that the gas stream must originate from an air oxidation reactor, distillation unit, or other reactor. This proposed section includes the same flow and

concentration criteria used in the existing definition of process vent. Paragraphs (b) through (g) of this proposed section also provide a more complete description of the flow characteristics of the gas stream than is currently provided by the definition. These paragraphs address the flow characteristics of the gas stream, the manner of discharge of the gas stream, and the location of discharge of the gas stream.

*Exclusions from the process vent definition.* The proposed § 63.107 also specifies gas streams that on ultimate discharge would not be subject to the process vent provisions of the rule. These exclusions are listed in proposed paragraph (h). They include items previously excluded from the definition such as relief valve discharges and gas streams routed to fuel gas systems. We have also included in paragraph (h) an exclusion for productive uses of gas streams and an exclusion for gas streams that are regulated under other sections of the rule.

In paragraph (h)(5), we have provided that if a gas stream is sent to another process for reaction or other productive use in another process, it is not considered to be a gas stream which would be subject to the HON control requirements. In such cases, the control requirements would be determined with respect to the process that ultimately discharges the gas stream to the atmosphere. For example, if a HON process unit sends a gas stream containing butadiene to a process unit producing polybutadiene rubber, the gas stream would be subject to requirements of 40 CFR part 63, subpart U (Group I Polymers and Resins) assuming that other applicability criteria for that rule are met.

Paragraph (h)(6) provides that gas streams that are transferred for fuel value are also not considered to be process vents. In this case, the gas stream is being used as, or with, primary fuel for process heaters or other combustion devices and as such will be efficiently combusted.

Also, to avoid potential misunderstandings, we are clarifying that the following gas streams are not considered process vents at the discharge point: (1) Gas streams discharged to the atmosphere from control devices subject to § 63.113, (2) gas streams from storage vessels, (3) gas streams from transfer operations, (4) gas streams from waste management units, and (5) gas streams from process analyzers. These gas streams were not intended to be addressed by the process vent requirements of the rule. These gas streams are being explicitly excluded in

this proposed approach to remove any potential ambiguity concerning applicability of the process vent requirements.

*Activities of concern.* We are also proposing to add a new paragraph § 63.107(i), which lists certain activities of concern to the EPA. The listed activities are similar to (and if not listed in paragraph (i), might have been mistaken for) certain productive uses that are excluded from the definition of "process vent." To avoid possible misunderstandings, paragraph (i) provides that the listed activities do not avoid the "process vent" requirements of subpart G. In other words, if there would have been a process vent in the absence of these activities, there is still a process vent.

For example, streams that change from the gas phase to the liquid phase are normally not subject to "process vent" requirements. However, it may be possible for an owner or operator to temporarily liquefy a gas stream without a valid process purpose simply to avoid classifying the emission point as a process vent. The proposed paragraph (i) specifies that, in such a case, the emission point is still a process vent.

As a second example, gas streams are often routed, for a valid process purpose, through other process equipment before discharge. In such cases, although some standards under part 63 may classify the emissions from other process equipment as "process vent" emissions, the HON does not. However, we are concerned that an owner or operator might route a gas stream to a piece of equipment, such as a storage vessel, without a valid process purpose simply to avoid having the process vent requirements apply. Paragraph (i) provides that any routing of a gas stream through equipment without a process purpose does not avoid the "process vent" requirements. In this regard, we also wish to clarify that for purposes of paragraph (i), providing inert "padding" for a storage vessel is not considered to be a process purpose.

As a third example, gas streams that are used as fuels are normally not subject to the "process vent" requirements of the HON. However, we are concerned that an owner or operator might interpret this to allow routing a gas stream to a substandard flare or incinerator (one that was not designed to achieve the destruction efficiency required by subpart G) and saying the stream is not a process vent. Regardless of whether combustion of the gas stream in a substandard flare or incinerator is a fuel use, it is also a form of emission control that does not comply with the

standards of subpart G. Consequently, paragraph (i) specifies that streams used in this manner are not exempt from any "process vent" requirements that would otherwise apply. We wish also to clarify that the wording "a flare that does not meet the criteria in section 63.11(b) or an incinerator that does not reduce emissions of organic hazardous air pollutants by 98 percent or to a concentration of 20 ppm by volume" in paragraph (i) is intended to describe the design characteristics of the flare or incinerator, not the actual performance at any given moment. An excursion, in which a flare or incinerator temporarily fails to achieve those requirements, would not cause the gas stream to trigger the process vent requirements.

#### *B. Reporting Requirements Associated with Proposed Change to the Definition of Process Vent*

We are also proposing to amend § 63.151(e) and to add a new paragraph, § 63.152(d)(4). These two paragraphs would require owners or operators to identify, for each process vent at the source, the chemical manufacturing process unit that creates the process vent, the type of unit operation that creates the vent stream, and either the last recovery device, if Group 2 process vent, or the control device and other equipment used for compliance. We consider submittal of this information to be an important part of the proposed change to define a process vent as a point of discharge to the atmosphere. This information is necessary to allow effective enforcement of the revised definition.

#### *C. Miscellaneous Conforming Edits*

Today's proposed amendments also include proposed amendments to several provisions and definitions in the rule to reflect today's proposed definition of process vent. The proposed amendments include:

- Revisions to the definition of "Group 1 process vent," "Group 2 process vent," and "vent stream" to reflect the new definition of process vent as a point of discharge to the atmosphere.
- Revisions to paragraphs (a)(3) and (c) of § 63.113 to use the defined terms "process vent" and "halogenated vent streams" instead of the undefined terms "vent" and "halogenated Group 1 process vents."
- Revisions to the second sentence in § 63.114(a)(3) to use the defined term "process vent" instead of the term "vent," which is not defined in the rule.
- Revisions to § 63.114(d) to reflect the proposed revisions to the definition of process vent. The proposed changes

are: (1) To monitor any bypass line for potential by-passes that could divert the gas stream to the atmosphere instead of monitoring for diversions from a control device; and (2) to specify that this obligation applies between the origin of the gas stream and the point where the gas stream reaches the process vent. These changes are a necessary part of the revised approach toward definition of a process vent.

- Revisions to several paragraphs in § 63.115 and § 63.116 and to § 63.117(a)(6), § 63.117(a)(8), and § 63.118(e)(1) to use the term "vent stream" instead of "process vent stream." This change is being proposed because the gas stream is not a process vent and to use a defined term.

- Revisions to § 63.117, paragraph (a) introductory text to refer to the defined term "Group 1 process vents" instead of "Group 1 process vent streams."

- Revision of paragraph (a)(4)(iv) of § 63.117 to refer to "vent streams introduced with combustion air \* \* \*" This revision is being proposed to reflect the proposed change in terminology.

#### **III. Off-Site Control or On-Site Third Party Control of Process Vent Emissions**

Today's proposed amendments include provisions to address the transfer off-site or to a third party on-site for disposal gas streams that have the characteristics of a process vent (specified in proposed § 63.107(b) through (h)) or meet the criteria in proposed § 63.107(i) and that have the characteristics of Group 1 process vents. We would add these proposed amendments to 40 CFR 63.113 as a new paragraph (i). Presently, the rule does not address situations where a gas stream is sent to another facility or a third party for disposal. Consequently, there is some ambiguity concerning who is responsible for compliance activities. We are proposing to add these provisions to address this oversight in the original drafting of the rule.

The proposed provisions to allow off-site or on-site third party control would require the owner/operator transferring the gas stream to comply with the provisions specified in 40 CFR 63.114(d) prior to transfer. The owner or operator may not transfer the gas stream unless the transferee has submitted to EPA a written certification that the transferee will manage and control, in accordance with subpart G, any gas streams that meet the characteristics of a Group 1 process vent at the point of transfer that were received from a source subject to the requirements of subparts F and G. The proposed provisions require the owner or operator

to notify the third party that the gas stream has to be handled and controlled in accordance with the requirements of the rule.

The proposed provisions would require that statements of compliance with the rule by a third party need only be submitted to EPA; the provisions do not contain or envision any requirement that EPA approve the written statements before transfers of such gas streams to off-site facilities are permitted. The proposed provisions provide, however, that EPA may take enforcement action against the transferee in the event that the transferee violates the pertinent HON process vent provisions.

We are proposing to clarify this compliance approach in recognition that in some instances gas streams subject to the HON process vent provisions are now being sent to another facility or a third party for disposal. We are doing this to provide a means to allow transfers of control responsibility without imposing liability for actions of another party on the owner or operator of the HON source.

*Definition of point of transfer.* We are also proposing to add a definition of "point of transfer" to subpart G. This proposed definition is used to specify the location where the applicability of control requirements is determined (i.e., where the total resource effectiveness (TRE) index value is determined) in situations where a gas stream is sent to a third party for disposal. This term is used in the proposed provisions for off-site control or on-site control not owned or operated by the source (§ 63.113(i)).

*Reporting requirements associated with off-site or third party treatment option.* Today's proposed action also includes proposed amendments to § 63.152 (b)(6) and (c)(4)(iv), and adds a paragraph (d)(4) to require reporting of the name and location of the transferee, the identification of the Group 1 process vent, and changes in the identity of the transferee. These reports are necessary to permit effective enforcement of the proposed provisions in § 63.113(i) for third party disposal of gas streams.

#### **IV. Compliance Schedules**

We are proposing to amend § 63.100 by adding a paragraph (q) to allow establishment of site-specific compliance dates under three circumstances. The first circumstance concerns situations where the transferee does not elect to submit a certification and ceases to accept the gas stream for disposal. The second circumstance concerns situations where the transferee had previously submitted a written certification and later revokes the written certification. The third

circumstance applies to cases where the inability to meet the applicable compliance date arises due to today's proposed amendments and is not one of the previously described situations.

For all three of these requests, the owner or operator must submit a proposed compliance schedule and a justification for the time requested. For cases where the need for additional time to comply with the rule arose solely due to today's proposed amendments, the owner or operator must also submit an explanation of why they need a new compliance date in addition to the previously mentioned proposed compliance schedule and justification. In addition, for cases when the transferee revokes the certification, the owner or operator must also submit an explanation of why they need a new compliance date and a description of the measures that will be taken to minimize excess emissions until the new compliance date. In your description of measures to minimize emissions, you must include a schedule when each measure will be first implemented and how and to what extent the measure will reduce emissions. For the last two cases, we would review the request for the compliance extension for the right to have additional time as well as the actual length of the compliance extension. In the first case, we would review only the length of compliance extension requested.

We are proposing these amendments in recognition that the provisions concerning third party control of gas streams sent for disposal are potentially imposing new requirements. We are proposing to address these compliance timing issues through review of individual requests since the time required for sources to comply with these new provisions will depend on site-specific factors. The proposed requirement for mitigating measures to reduce emissions for situations where the transferee revokes certification is intended to ensure that all reasonable measures are taken to ensure that emissions are not increased.

We further recognize that the proposed amendments to the definition of process vent and the proposed § 63.107 may also affect the compliance status of some facilities. The intent of the proposed provisions allowing owners or operators to request a compliance schedule for these cases is intended to efficiently manage the effect of these proposed rule changes.

## V. Miscellaneous Corrections and Clarifications

We are also proposing to amend several additional paragraphs in subparts F and G to correct drafting errors and address oversights. These problems were identified during the review of the rule to address the implementation issues associated with the rule's definition of process vent. In addition, we are proposing amendments to some of the wastewater provisions to correct drafting errors and oversights in those sections of the rule.

### A. Subpart F

*Section 63.100(e).* We are proposing to revise § 63.100(e) by adding a new first sentence to the paragraph that states that the source is the collection of all chemical manufacturing process units at a major source that meet the applicability criteria in § 63.100(b)(1) through (b)(3). We are also proposing several minor edits to § 63.100(e) to reflect this additional sentence. We are doing this to make it clearer that the source is comprised of all the equipment and operations associated with the process units subject to the rule. We expect that this proposed revision should reduce questions concerning which equipment is considered to be in the source and thereby simplify reconstruction determinations.

*Batch process vent changes.* We are proposing to amend § 63.100(j)(4) and to add a definition of "batch process vent" to § 63.101 to correct a drafting error. We are revising § 63.100(j)(4) to refer to "batch process vents" instead of the term "process vent." This change is necessary because, in the rule, the term "process vent" only applies to continuous discharges from specific types of equipment. As such, it was improperly applied to the case being addressed in § 63.100(j)(4). To describe the type of operation that we intended to exclude by the provision in § 63.100(j)(4), we are proposing to define "batch process vent" as:

*Batch process vent means* gaseous venting to the atmosphere from a batch operation.

Our intent with the process vent provisions of the rule was to address operations that created continuous gaseous discharges during the operation of the process unit.

### B. Subpart G

*Section 63.110(a).* We are proposing to amend § 63.110(a) to include in-process equipment subject to § 63.149 of subpart G. We overlooked the need to amend this paragraph in preparation of the January 17, 1997 amendments to the

rule. Today's action would correct that error.

*Miscellaneous conforming edits to process vent provisions (§§ 63.113 to 63.118).* We are also proposing to amend several paragraphs in subpart G to improve consistency in terminology. These changes are:

- Revision of § 63.113(e) to refer to the defined term "TRE index value" instead of "TRE index."
- Revision of § 63.113(g) to refer to "total organic HAP concentration" instead of "concentration." This proposed change would correct unclear language in this paragraph.
- Revision of the term "gas stream flow" in the introductory language to § 63.114(a)(4)(ii) and in § 63.114(a)(4)(ii)(C) to read "gas flow rate."

We are also proposing to revise § 63.118(a)(3) and (f)(3) to require records for periods when the gas stream is diverted to the atmosphere instead of records for periods when the gas stream is diverted from the control device. These revisions will make the recordkeeping requirement consistent with the monitoring requirement. We overlooked the need for these changes when we made the January 17, 1997 amendments to the rule that revised the wording of the monitoring requirement.

*Miscellaneous amendments to wastewater provisions in §§ 63.132 through 63.147 and tables to subpart G.* We are proposing changes to these sections of subpart G to address a number of minor drafting errors and oversights in the January 17, 1997 amendments to the rule. The sections and the associated proposed revisions are:

- § 63.132(a)(3) and (b)(4)—these paragraphs currently send the reader to the recordkeeping and reporting provisions in §§ 63.146 and 63.147. However, at this time there is no explicit statement that Group 2 wastewater streams are also subject to the recordkeeping and reporting requirements despite table 15 of subpart G requiring such information. Today's proposal would explicitly specify these requirements for Group 2 wastewater streams and would add cross references for them to § 63.132(a)(3) and (b)(4).
- § 63.138(i)—Today's proposed amendments are to clarify that in some cases, process wastewater streams included in the 1 megagram (Mg) exemption from treatment requirements in § 63.138(b) and (c) are also exempt from the suppression requirements in §§ 63.133 through 63.137. In cases where the mass flow rate is determined at the point of determination, it was never our intent to require suppression

of these wastewater streams. We intended to require suppression of the partially treated streams that are part of the 1 Mg exemption option provided in § 63.138(i)(2). The proposed amendments would also clarify that process wastewater streams included in the 1 Mg exemption must be identified in the Notification of Compliance Status for both options presented in § 63.138(i). The current text inadvertently omitted stating this requirement explicitly for the option that requires all Group 1 wastewater streams at the source to have a mass flow rate less than 1 Mg per year (§ 63.138(i)(1)). (Identification of all Group 1 and Group 2 wastewater streams is currently required to be included in the Notification of Compliance in Table 15.)

- § 63.146(b)(1)—The proposal would add a statement of the reporting requirements for Group 2 wastewater streams. The proposed text is consistent with the information presently required by Table 15 to subpart G. Paragraph (b)(1) is presently a reserved paragraph in subpart G.

- § 63.147(b)(8)—The proposed amendment would clarify the recordkeeping requirements for Group 2 wastewater streams. The proposed addition to this section is consistent with the information presently required by Table 15 to subpart G.

- § 63.147(d) introductory text, paragraphs (d)(2) and (d)(3)—The proposed amendments would clarify requirements for non-regenerative carbon adsorbers. Section 63.147(d) only specifies the records to keep in lieu of daily averages for regenerative carbon adsorbers. Due to an oversight, the present rule text does not specify the required records for non-regenerative carbon adsorbers. Presumably, without today's correction, facilities operating non-regenerative carbon adsorbers would have to keep daily averages, which is not EPA's intent. Today's amendments would provide an alternative to daily averages for non-regenerative carbon adsorbers. The proposed amendments would also make this section of the rule consistent with Table 13 to subpart G.

- Table 12 to subpart G—The proposed amendments would remove "design" and the reference to § 63.138(d) from item 2 of the table. We intended that the continuous monitoring requirements specified in item 2 apply to all steam strippers used to comply with the wastewater provisions in subpart G, not just design steam strippers. Without this change, owners or operators of sources using steam strippers to comply with the wastewater treatment requirements are

required to request approval of the monitoring parameters. It was not EPA's intent to require approval for these parameters.

- Table 20 to subpart G—The proposed amendments would add requirements for non-regenerative carbon adsorbers. These amendments are necessary because we omitted non-regenerative carbon adsorbers from this table. See discussion accompanying § 63.147(d) for further explanation of the need for this amendment.

*Section 63.151(b)(1)(iii).* We are proposing to correct a drafting error in § 63.151(b)(1)(iii). This paragraph in the rule requires identification of the kinds of emission points within the chemical manufacturing process units that are subject to subpart G. The proposed amendment to § 63.151(b)(1)(iii) would replace the phrase "within the chemical manufacturing process unit" with the phrase "within the source." This change is necessary because wastewater streams are not included in the definition of the chemical manufacturing process unit, but they are part of the source regulated by the HON. Consequently, this reporting requirement does not accomplish its intended purpose.

Therefore, we are proposing to revise § 63.151(b)(1)(iii) to require identification of the kinds of emission points within the source that are subject to subpart G.

#### *C. Clarification of Compliance Demonstration Requirements for Flares*

We are proposing amendments to § 63.116(a), § 63.128(b), § 63.14(j), and § 63.180(e) to clarify that a compliance demonstration for flares must be conducted using the provisions found in § 63.11(b). Specifically, we are now specifying that the owner or operator must (1) conduct a visible emission test, (2) determine the net heating value of the gas being combusted, and (3) determine the actual exit velocity. In each case, we are specifying specific procedures required in 63.11(b) for the determination. We are adding this more explicit language to the rule to address questions concerning the obligation to do these compliance determinations. We intend this change to remove any doubt concerning the applicability of these requirements.

#### *D. Appendix C to Part 63*

We are proposing to amend appendix C to part 63 to add a concentration measurement procedure for determining the fraction biodegraded ( $f_{bio}$ ) in biological treatment units that are not thoroughly mixed, and thus, have multiple zones of mixing. As part of these proposed revisions, we are

proposing to add a Form XIII to appendix C to part 63, and we are proposing conforming edits to section I to refer to the new procedure in section III.E.

The purpose of adding this new procedure, called Multiple Zone Concentration Measurements, to appendix C is to provide an alternative concentration measurement test that can be used for units with multiple zones of mixing. The present concentration measurement procedure in appendix C, called the Inlet and Outlet Concentration Measurement Procedure, can only be used for thoroughly mixed treatment units. To use this new multiple zone procedure, you would identify zones with substantially uniform characteristics and would measure representative organic compound concentrations within the biological treatment unit as well as the inlet and outlet of the biological treatment unit. The estimated mass transfer coefficient for each compound is determined using the characteristics of each zone. You calculate  $f_{bio}$  for each compound and each zone using Form XIII.

In addition to adding the Multiple Zone Concentration Measurements Procedure to appendix C, we are also proposing corrections to a term in Equation App. C-6 and to clarify that Equation App. C-4 is the solution to Equation App. C-3.

## **VI. Administrative Requirements**

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether a regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive 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.

It has been determined that this proposed rule is not a "significant regulatory action" within the meaning of the Executive Order and is therefore not subject to OMB review. These proposed changes to the HON are primarily technical and administrative and do not raise any novel legal or policy issues. These proposed changes are not expected to impose significant new costs. This proposed action will not have an annual effect on the economy of \$100 million or other adverse economic impacts, not create any inconsistencies with other actions by other agencies, not alter any budgetary impacts, or raise any novel legal or policy issues.

#### *B. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments*

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed amendments to the rule would not significantly or uniquely affect the communities of Indian tribal governments. The proposal would amend the definition of "process vent" and would make other technical and administrative changes to the rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

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

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

#### *D. Executive Order 13132 on Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns, and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

These proposed amendments to the final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's proposed amendments would not impose any enforceable duties on these entities. The proposal would amend the definition of "process vent" and would make other technical and administrative changes to the rule. Thus, the requirements of section 6 of the Executive Order do not apply to these proposed amendments to the final rule.

#### *E. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed or final rules with "Federal mandates" 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 in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative

other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's proposed action does not contain 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 in any 1 year. Therefore, the requirements of sections 202 and 205 of the UMRA do not apply to this action. The EPA has likewise determined that the action proposed today does not include any regulatory requirements that might significantly or uniquely affect small governments. Thus, today's action is not subject to the requirements of section 203 of the UMRA.

#### *F. Regulatory Flexibility/Small Business Regulatory Enforcement Fairness Act of 1996*

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires the EPA to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. The EPA is required to prepare a regulatory flexibility analysis and coordinate with small entity stakeholders if the Agency determines that a rule will have a significant economic impact on a substantial number of small entities.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these proposed amendments to the rule. The EPA has also determined that these amendments will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions. See the April 22, 1994

**Federal Register** (59 FR 19449) for the basis for this determination. The proposed changes are primarily technical and administrative, and are not expected to impose significant new costs. The EPA does not anticipate that the proposed changes will create any significant additional burden for any of the regulated entities.

#### *G. Paperwork Reduction Act*

The OMB has approved the information collection requirements contained in the rule under 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 the EPA (ICR No. 1414.03) and a copy may be obtained from Sandy Farmer, OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St. SW, 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 an information collection request unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Today's proposed amendments to the rule should have a very minor effect on the information collection burden estimates made previously. Based on discussions with industry representatives, EPA believes that this action would result in less than a 2 percent increase in the estimated information collection burden. This potential increase would include the burden associated with identification of and submittal of compliance documentation for previously unreported process vents subject to this rule. The potential increase would also include the burden associated with preparation of a supplemental report to identify the point of origination of the reported process vents as well as the discharge point. The EPA also estimates that a small (less than 2 percent) number of facilities may be required to install controls as a result of today's proposed changes. The EPA considers these changes to the rule to represent a clarification of the definition of process vent and the reporting requirements for process vents. Thus, EPA considers these potential increases in the burden estimate to be well within the uncertainty of the analysis. Consequently, the ICR has not been revised for these proposed amendments to the rule.

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

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104-113, § 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed action includes amendments to appendix C to add another procedure for determining fraction biodegraded. Therefore, we conducted a search to identify potentially applicable voluntary consensus standards for this case. However, we identified no such standards. Therefore, EPA proposes to add this additional procedure to appendix C. The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

In the event commenters identify potentially-applicable voluntary consensus standards, EPA will carefully evaluate whether these procedures are viable alternatives to the proposed procedure. However, EPA does not anticipate that there will be any standards identified that are equivalent in terms of stringency and other criteria.

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

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

Dated: January 10, 2000.

**Carol M. Browner,**  
*Administrator.*

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

#### **PART 63—[AMENDED]**

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

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

**Subpart 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 (e) introductory text, by revising paragraph (j)(4), and by adding paragraph (q) to read as follows:

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

\* \* \* \* \*

(e) The source to which this subpart applies is the collection of all chemical manufacturing process units and the associated equipment at a major source that meet the criteria specified in paragraphs (b)(1) through (b)(3) of this section. The source includes the process vents; storage vessels; transfer racks; waste management units; maintenance wastewater; heat exchange systems; equipment identified in § 63.149; and pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, surge control vessels, and bottoms receivers that are associated with that collection of chemical manufacturing process units. The source also includes equipment required by, or utilized as a method of compliance with, subparts F, G, or H of this part which may include control devices and recovery devices.

\* \* \* \* \*

(j) \* \* \*

(4) Batch process vents within a chemical manufacturing process unit.

\* \* \* \* \*

(q) If the owner or operator of a process vent, or of a gas stream transferred subject to § 63.113(i), is unable to comply with the provisions of §§ 63.113 through 63.118 by the applicable compliance date specified in paragraph (k), (l), or (m) of this section for the reasons stated in paragraph (q)(1), (q)(3), or (q)(5) of this section, the owner or operator shall comply with the applicable provisions in §§ 63.113 through 63.118 as expeditiously as practicable, but in no event later than the date approved by the Administrator pursuant to paragraph (q)(2), (q)(4), or (q)(6) of this section, respectively. For requests under paragraph (q)(1) or (q)(3) of this section, the date approved by the Administrator may be earlier than, and shall not be later than, the later of [DATE 3 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] or 3 years after the transferee's refusal to accept the stream for disposal. For requests submitted under paragraph (q)(5) of this section, the date approved by the

Administrator may be earlier than, and shall not be later than, 3 years after the date of promulgation of the amendments to this subpart or to subpart G of part 63 which created the need for an extension of the compliance.

(1) If the owner or operator has been sending a gas stream for disposal as described in § 63.113(i) prior to [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], and the transferee does not submit a written certification as described in § 63.113(i)(2) and ceases to accept the gas stream for disposal, the owner or operator shall comply with paragraph (q)(2) of this section.

(2)(i) An owner or operator directed to comply with paragraph (q)(2) of this section shall submit to the Administrator for approval a compliance schedule, along with a justification for the schedule.

(ii) The compliance schedule and justification shall be submitted no later than 90 days after the transferee ceases to accept the gas stream for disposal.

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

(3) If the owner or operator has been sending the gas stream for disposal as described in § 63.113(i) to a transferee who had submitted a written certification as described in § 63.113(i)(2), and the transferee revokes its written certification, the owner or operator shall comply with paragraph (q)(4) of this section. During the period between the date when the owner or operator receives notice of revocation of the transferee's written certification and the compliance date established under paragraph (q)(4) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions to the extent practical. For purposes of this paragraph (q)(3) of this section, the term "excess emissions" means emissions in excess of those that would have occurred if the transferee had continued managing the gas stream in compliance with the requirements in §§ 63.113 through 63.118. The measures to be taken shall be identified in the applicable start-up, shutdown, and malfunction plan. If the measures that can be reasonably taken will change over time, so that a more effective measure which could not reasonably be taken initially would be reasonable at a later date, the Administrator may require the more effective measure by a specified date (in addition to or instead of any other measures taken sooner or

later than that date) as a condition of approval of the compliance schedule.

(4)(i) An owner or operator directed to comply with paragraph (q)(4) of this section shall submit to the Administrator for approval the documents specified in paragraphs (q)(4)(i)(A) through (E) of this section no later than 90 days after the owner or operator receives notice of revocation of the transferee's written certification.

(A) A request for determination of a compliance date.

(B) A justification for the request for determination of a compliance date.

(C) A compliance schedule.

(D) A justification for the compliance schedule.

(E) A description of the measures that will be taken to minimize excess emissions until the new compliance date, and the date when each measure will first be implemented. The owner or operator shall describe how, and to what extent, each measure will minimize excess emissions, and shall justify any period of time when measures are not in place.

(ii) The Administrator shall approve or disapprove the request for determination of a compliance date and the compliance schedule, or request changes, within 120 days after receipt of the documents specified in paragraphs (q)(4)(i)(A) through (E) of this section. Upon approving the request for determination and compliance schedule, the Administrator shall specify a reasonable compliance date consistent with the introductory text in paragraph (q) of this section.

(5) If the owner's or operator's inability to meet otherwise applicable compliance deadlines is due to amendments of this subpart or of subpart G of part 63 promulgated on or after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] and neither condition specified in paragraph (q)(1) or (q)(3) of this section is applicable, the owner or operator shall comply with paragraph (q)(6) of this section.

(6)(i) An owner or operator directed to comply with this paragraph shall submit to the Administrator for approval a request for determination of a compliance date, a compliance schedule, a justification for the determination of a compliance date, and a justification for the compliance schedule.

(ii) The documents required to be submitted under paragraph (q)(6)(i) of this section shall be submitted no later than 120 days after publication of the amendments of this subpart or of subpart G of part 63 which necessitate the request for an extension.

(iii) The Administrator shall approve or disapprove the request for a determination of a compliance date, or request changes, within 120 days after receipt of the request for determination of a compliance date, the compliance schedule, and the two justifications. If the request for determination of a compliance date is disapproved, the compliance schedule is disapproved and the owner or operator shall comply by the applicable date specified in paragraph (k), (l), or (m) of this section. If the request for the determination of a compliance date is approved, the Administrator shall specify, at the time of approval, a reasonable compliance date consistent with the introductory text in paragraph (q) of this section.

3. Section 63.101 is amended by adding in alphabetical order the definition of "Batch process vent" and by revising the definition of "Process vent" to read as follows:

**§ 63.101 Definitions.**

\* \* \* \* \*

*Batch process vent* means gaseous venting to the atmosphere from a batch operation.

\* \* \* \* \*

*Process vent* means the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream if the gas stream has the characteristics specified in § 63.107(b) through (h) or meets the criteria specified in § 63.107(i). For purposes of §§ 63.113 through 63.118, all references to the characteristics of a process vent (e.g., flow rate, total HAP concentration, or TRE index value) shall mean the characteristics of the gas stream.

\* \* \* \* \*

4. Subpart F is amended by adding a new § 63.107 to read as follows:

**§ 63.107 Identification of Process Vents Subject to this Subpart.**

(a) The owner or operator shall use the criteria specified in this section to determine whether there are any process vents associated with an air oxidation reactor, distillation unit, or reactor that is in a source subject to this subpart. A process vent is the point of discharge to the atmosphere (or the point of entry into a control device, if any) of a gas stream if the gas stream has the characteristics specified in paragraphs (b) through (h) of this section or meets the criteria specified in paragraph (i) of this section.

(b) Some, or all, of the gas stream originates as a continuous flow from an air oxidation reactor, distillation unit, or reactor during operation of the chemical manufacturing process unit.

(c) The discharge to the atmosphere (with or without passing through a control device) meets at least one of the conditions specified in paragraphs (c)(1) through (c)(3) of this section.

(1) Is directly from an air oxidation reactor, distillation unit, or reactor; or

(2) Is from an air oxidation reactor, distillation unit, or reactor after passing solely (*i.e.*, without passing through any other unit operation for a process purpose) through one or more recovery devices within the chemical manufacturing process unit; or

(3) Is from a device recovering only mechanical energy from a gas stream that comes either directly from an air oxidation reactor, distillation unit, or reactor, or from an air oxidation reactor, distillation unit, or reactor after passing solely (*i.e.*, without passing through any other unit operation for a process purpose) through one or more recovery devices within the chemical manufacturing process unit.

(d) The gas stream contains greater than 0.005 weight percent total organic hazardous air pollutants at the point of discharge to the atmosphere (or at the point of entry into a control device, if any).

(e) The air oxidation reactor, distillation unit, or reactor is part of a chemical manufacturing process unit that meets the criteria of § 63.100(b).

(f) The gas stream is in the gas phase from the point of origin at the air oxidation reactor, distillation unit, or reactor to the point of discharge to the atmosphere (or to the point of entry into a control device, if any).

(g) The gas stream is discharged to the atmosphere either on-site, off-site, or both.

(h) The gas stream is not any of the items identified in paragraphs (h)(1) through (h)(9) of this section.

(1) A relief valve discharge.

(2) A leak from equipment subject to subpart H of this part.

(3) A gas stream going to a fuel gas system as defined in § 63.101.

(4) A gas stream exiting a control device used to comply with § 63.113.

(5) A gas stream transferred to other processes (on-site or off-site) for reaction or other use in another process (*i.e.*, for chemical value as a product, isolated intermediate, byproduct, or coproduct or for heat value).

(6) A gas stream transferred for fuel value (*i.e.*, net positive heating value), use, reuse, or for sale for fuel value, use, or reuse.

(7) A storage vessel vent or transfer operation vent subject to § 63.119 or § 63.126.

(8) A vent from a waste management unit subject to §§ 63.132 through 63.137.

(9) A gas stream exiting a process analyzer.

(i) The gas stream would meet the characteristics specified in paragraphs (b) through (g) of this section, but, for purposes of avoiding applicability, has been deliberately interrupted, temporarily liquefied, routed through any item of equipment for no process purpose, or disposed of in a flare that does not meet the criteria in § 63.11(b), or an incinerator that does not reduce emissions of organic hazardous air pollutants by 98 percent or to a concentration of 20 ppm by volume, whichever is less stringent.

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

5. Section 63.110 is amended by revising paragraph (a) to read as follows:

**§ 63.110 Applicability.**

(a) This subpart applies to all process vents, storage vessels, transfer racks, wastewater streams, and/or in-process equipment subject to § 63.149 within a source subject to subpart F of this part.

\* \* \* \* \*

6. Section 63.111 is amended by adding in alphabetical order the definition of "Point of transfer" and by revising the definitions of "Group 1 process vent," "Group 2 process vent," and "Vent stream" to read as follows:

**§ 63.111 Definitions.**

\* \* \* \* \*

*Group 1 process vent* means a process vent for which the vent stream flow rate is greater than or equal to 0.005 standard cubic meter per minute, the total organic HAP concentration is greater than or equal to 50 ppm by volume, and the total resource effectiveness index value, calculated according to § 63.115, is less than or equal to 1.0.

*Group 2 process vent* means a process vent for which the vent stream flow rate is less than 0.005 standard cubic meter per minute, the total organic HAP concentration is less than 50 ppm by volume or the total resource effectiveness index value, calculated according to § 63.115, is greater than 1.0.

\* \* \* \* \*

*Point of transfer* means:

(1) If the transfer is to an off-site location for control, the point where the conveyance crosses the property line; or

(2) If the transfer is to an on-site location not owned or operated by the

owner or operator of the source, the point where the conveyance enters the operation or equipment of the transferee.

\* \* \* \* \*

*Vent stream*, as used in the process vent provisions, means the gas stream flowing through the process vent.

\* \* \* \* \*

7. Section 63.113 is amended by:

a. Revising paragraph (a) introductory text.

b. Revising the second sentence in paragraph (a)(3).

c. Revising paragraph (c) introductory text and paragraph (c)(1) introductory text.

d. Revising paragraphs (e) and (g).

e. Adding a new paragraph (i).

The revisions and addition read as follows:

**§ 63.113 Process vent provisions—reference control technology.**

(a) The owner or operator of a Group 1 process vent as defined in this subpart shall comply with the requirements of paragraph (a)(1), (a)(2), or (a)(3) of this section. The owner or operator who transfers a gas stream that has the characteristics specified in § 63.107 (b) through (h) or meets the criteria specified in § 63.107(i) to an off-site location or an on-site location not owned or operated by the owner or operator of the source for disposal shall comply with the requirements of paragraph (i) of this section.

\* \* \* \* \*

(3) \* \* \* If the TRE index value is greater than 1.0, the process vent shall comply with the provisions for a Group 2 process vent specified in either paragraph (d) or (e) of this section, whichever is applicable.

\* \* \* \* \*

(c) Halogenated vent streams from Group 1 process vents that are combusted shall be controlled according to paragraph (c)(1) or (c)(2) of this section.

(1) If a combustion device is used to comply with paragraph (a)(2) of this section for a halogenated vent stream, then the gas stream exiting the combustion device shall be conveyed to a halogen reduction device, such as a scrubber, before it is discharged to the atmosphere.

\* \* \* \* \*

(e) The owner or operator of a Group 2 process vent with a TRE index value greater than 4.0 shall maintain a TRE index value greater than 4.0, comply with the provisions for calculation of TRE index in § 63.115 and the reporting and recordkeeping provisions in § 63.117(b), § 63.118(c), and § 63.118(h),

and is not subject to monitoring or any other provisions of §§ 63.114 through 63.118.

\* \* \* \* \*

(g) The owner or operator of a Group 2 process vent with a total organic HAP concentration less than 50 ppm by volume shall maintain a total organic HAP concentration less than 50 ppm by volume; comply with the Group determination procedures in § 63.115(a), (c), and (e); the reporting and recordkeeping requirements in § 63.117(d), § 63.118(e), and § 63.118(j); and is not subject to monitoring or any other provisions of §§ 63.114 through 63.118.

\* \* \* \* \*

(i) *Off-site control or on-site control not owned or operated by the source.*

This paragraph applies to gas streams that have the characteristics specified in §§ 63.107(b) through (h) of subpart F of this part or meet the criteria specified in § 63.107(i) of subpart F of this part; that are transferred for disposal to an on-site control device (or other compliance equipment) not owned or operated by the owner or operator of the source generating the gas stream, or to an off-site control device or other compliance equipment; and that have the characteristics (e.g., flow rate, total organic HAP concentration, or TRE index value) of a Group 1 process vent, determined at the point of transfer.

(1) The owner or operator transferring the gas stream shall:

(i) Comply with the provisions specified in § 63.114(d) for each gas stream prior to transfer.

(ii) Notify the transferee that the gas stream contains organic hazardous air pollutants that are to be treated in accordance with the provisions of this subpart. The notice shall be submitted to the transferee initially and whenever there is a change in the required control.

(2) The owner or operator may not transfer the gas stream unless the transferee has submitted to the EPA a written certification that the transferee will manage and treat any gas stream transferred under this paragraph (i) of this section and received from a source subject to the requirements of this subpart in accordance with the requirements of either §§ 63.113 through 63.118, or § 63.102(b), or subpart D of this part if alternative emission limitations have been granted the transferor in accordance with those provisions. The certifying entity may revoke the written certification by sending a written statement to the EPA and the owner or operator giving at least 90 days notice that the certifying entity is rescinding acceptance of

responsibility for compliance with the regulatory provisions listed in this paragraph. Upon expiration of the notice period, the owner or operator may not transfer the gas stream to the transferee. Records retained by the transferee shall be retained in accordance with § 63.10(b).

(3) By providing this written certification to the EPA, the certifying entity accepts responsibility for compliance with the regulatory provisions listed in paragraph (i)(2) of this section with respect to any transfer covered by the written certification. Failure to abide by any of those provisions with respect to such transfers may result in enforcement action by the EPA against the certifying entity in accordance with the enforcement provisions applicable to violations of these provisions by owners or operators of sources.

(4) Written certifications and revocation statements to the EPA from the transferees of such gas streams shall be signed by a responsible official of the certifying entity, provide the name and address of the certifying entity, and be sent to the appropriate EPA Regional Office at the addresses listed in 40 CFR 63.13. Such written certifications are not transferable by the transferee.

8. Section 63.114 is amended by revising paragraphs (a)(3), (a)(4)(ii), and (d) to read as follows:

**§ 63.114 Process vent provisions—monitoring requirements.**

(a) \* \* \*

(3) Where a boiler or process heater of less than 44 megawatts design heat input capacity is used, the following monitoring equipment is required: a temperature monitoring device in the firebox equipped with a continuous recorder. This requirement does not apply to gas streams that are introduced with primary fuel or are used as the primary fuel.

(4) \* \* \*

(ii) A flow meter equipped with a continuous recorder shall be located at the scrubber influent for liquid flow. Gas flow rate shall be determined using one of the procedures specified in paragraphs (a)(4)(ii)(A) through (C) of this section.

(A) The owner or operator may determine gas flow rate using the design blower capacity, with appropriate adjustments for pressure drop.

(B) If the scrubber is subject to regulations in 40 CFR parts 264 through 266 that have required a determination of the liquid to gas (L/G) ratio prior to the applicable compliance date for this subpart specified in § 63.100(k), the owner or operator may determine gas

flow rate by the method that had been utilized to comply with those regulations. A determination that was conducted prior to the compliance date for this subpart may be utilized to comply with this subpart if it is still representative.

(C) The owner or operator may prepare and implement a gas flow rate determination plan that documents an appropriate method which will be used to determine the gas flow rate. The plan shall require determination of gas flow rate by a method which will at least provide a value for either a representative or the highest gas flow rate anticipated in the scrubber during representative operating conditions other than start-ups, shutdowns, or malfunctions. The plan shall include a description of the methodology to be followed and an explanation of how the selected methodology will reliably determine the gas flow rate, and a description of the records that will be maintained to document the determination of gas flow rate. The owner or operator shall maintain the plan as specified in § 63.103(c).

(d) The owner or operator of a process vent shall comply with paragraph (d)(1) or (d)(2) of this section for any bypass line, between the origin of the gas stream (i.e., at an air oxidation reactor, distillation unit, or reactor as identified in § 63.107(b)) and the point where the gas stream reaches the process vent as described in § 63.107, that could divert the gas stream directly to the atmosphere. Equipment such as low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, and pressure relief valves needed for safety purposes are not subject to this paragraph.

(1) Properly install, maintain, and operate a flow indicator that takes a reading at least once every 15 minutes. Records shall be generated as specified in § 63.118(a)(3). The flow indicator shall be installed at the entrance to any bypass line that could divert the gas stream to the atmosphere; or

(2) Secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the non-diverting position and the gas stream is not diverted through the bypass line.

\* \* \* \* \*

9. Section 63.115 is amended by:

a. Revising paragraph (a) introductory text.

b. Revising paragraph (b) introductory text.

c. Revising paragraph (c) introductory text,

(c)(4)(i), and (c)(4)(ii).

d. Revising paragraph (d)(1) introductory text and

(d)(1)(iii)(D)( 4).

e. Revising paragraph (d)(2) introductory text, (d)(2)(i) and (d)(2)(ii) introductory text, and (d)(2)(ii)(C).

f. Adding paragraph (f).

The revisions and addition read as follows:

**§ 63.115 Process vent provisions— methods and procedures for process vent group determination.**

(a) For purposes of determining vent stream flow rate, total organic HAP or TOC concentration or TRE index value, as specified under paragraph (b), (c), or (d) of this section, the sampling site shall be after the last recovery device (if any recovery devices are present) but prior to the inlet of any control device that is present and prior to release to the atmosphere.

\* \* \* \* \*

(b) To demonstrate that a vent stream flow rate is less than 0.005 standard cubic meter per minute in accordance with the Group 2 process vent definition of this subpart, the owner or operator shall measure flow rate by the following procedures:

\* \* \* \* \*

(c) Each owner or operator seeking to demonstrate that a vent stream has an organic HAP concentration below 50 ppm by volume in accordance with the Group 2 process vent definition of this subpart shall measure either total organic HAP or TOC concentration using the following procedures:

\* \* \* \* \*

(4) \* \* \*

(i) Method 25A of 40 CFR part 60, appendix A shall be used only if a single organic HAP compound is greater than 50 percent of total organic HAP, by volume, in the vent stream.

(ii) The vent stream composition may be determined by either process knowledge, test data collected using an appropriate EPA method, or a method or data validated according to the protocol in Method 301 of appendix A of this part. Examples of information that could constitute process knowledge include calculations based on material balances, process stoichiometry, or previous test results provided the results are still relevant to the current vent stream conditions.

\* \* \* \* \*

(d) \* \* \*

(1) Engineering assessment may be used to determine vent stream flow rate,

net heating value, TOC emission rate, and total organic HAP emission rate for the representative operating condition expected to yield the lowest TRE index value.

\* \* \* \* \*

(iii) \* \* \*

(D) \* \* \*

(4) Estimation of maximum expected net heating value based on the vent stream concentration of each organic compound or, alternatively, as if all TOC in the vent stream were the compound with the highest heating value.

\* \* \* \* \*

(2) Except as provided in paragraph (d)(1) of this section, vent stream flow rate, net heating value, TOC emission rate, and total organic HAP emission rate shall be measured and calculated according to the procedures in paragraphs (d)(2)(i) through (v) of this section and used as input to the TRE index value calculation in paragraph (d)(3) of this section.

(i) The vent stream volumetric flow rate (Qs), in standard cubic meters per minute at 20 °C, shall be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate. If the vent stream tested passes through a final steam jet ejector and is not condensed, the vent stream volumetric flow shall be corrected to 2.3 percent moisture.

(ii) The molar composition of the vent stream, which is used to calculate net heating value, shall be determined using the following methods:

\* \* \* \* \*

(C) Method 4 of 40 CFR part 60, appendix A to measure the moisture content of the vent stream.

\* \* \* \* \*

(f) Notwithstanding any other provisions of this subpart, in any case where a process vent includes one or more gas streams that are not from a source subject to this subpart (hereafter called “non-HON streams” for purposes of this paragraph), and one or more gas streams that meet the criteria in § 63.107(b) through (h) or the criteria in § 63.107(i) (hereafter called “HON streams” for purposes of this paragraph), the owner or operator may elect to comply with paragraphs (f)(1) through (f)(3) of this section.

(1) The owner or operator may determine the characteristics (flow rate, total organic HAP concentration, and TRE index value) for each HON stream, or combination of HON streams, at a representative point as near as practical to, but before, the point at which it is combined with non-HON streams.

(2) If one or more of the HON streams, or combinations of HON streams, has the characteristics (determined at the location specified in paragraph (f)(1) of this section) associated with a Group 1 process vent, the combined vent stream is a Group 1 process vent. Except as specified in paragraph (f)(3) of this section, if none of the HON streams, or combinations of HON streams, when determined at the location specified in paragraph (f)(1) of this section has the characteristics associated with a Group 1 process vent, the combined vent stream is a Group 2 process vent regardless of the TRE index value determined at the location specified in § 63.115(a). If the combined vent stream is a Group 2 process vent as determined by the previous sentence, but one or more of the HON streams, or combinations of HON streams, has a TRE index value greater than 1 but less than or equal to 4, the combined vent stream is a process vent with a TRE index value greater than 1 but less than or equal to 4. In this case, the owner or operator shall monitor the combined vent stream as required by § 63.114(b).

(3) Paragraphs (f)(1) and (f)(2) of this section are not intended to apply instead of any other subpart of part 63. If another subpart of part 63 applies to one or more of the non-HON streams contributing to the combined vent stream, that subpart may impose emission control requirements such as, but not limited to, requiring the combined vent stream to be classified and controlled as a Group 1 process vent.

- 10. Section 63.116 is amended by:
a. Revising paragraph (a).
b. Revising paragraph (b)(2).
c. Revising paragraphs (c)(1)(i)(B) and (c)(4)(iv).
d. Revising paragraph (d) introductory text.

The revisions read as follows:

§ 63.116 Process vent provisions—performance test methods and procedures to determine compliance.

(a) When a flare is used to comply with § 63.113(a)(1), the owner or operator shall comply with paragraphs (a)(1) through (3) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration.

- (1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4).
(2) Determine the net heating value of the gas being combusted using the techniques specified in § 63.11(b)(6).
(3) Determine the exit velocity using the techniques specified in either

§ 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

(b) \* \* \*
(2) A boiler or process heater into which the gas stream is introduced with the primary fuel or is used as the primary fuel.

- \* \* \* \* \*
(c) \* \* \*
(1) \* \* \*
(i) \* \* \*

(B) If a vent stream is introduced with the combustion air or as a secondary fuel into a boiler or process heater with a design capacity less than 44 megawatts, selection of the location of the inlet sampling sites shall ensure the measurement of total organic HAP or TOC (minus methane and ethane) concentrations in all vent streams and primary and secondary fuels introduced into the boiler or process heater.

- \* \* \* \* \*
(4) \* \* \*

(iv) If the vent stream entering a boiler or process heater with a design capacity less than 44 megawatts is introduced with the combustion air or as a secondary fuel, the weight-percent reduction of total organic HAP or TOC (minus methane and ethane) across the device shall be determined by comparing the TOC (minus methane and ethane) or total organic HAP in all combusted vent streams and primary and secondary fuels with the TOC (minus methane and ethane) or total organic HAP exiting the combustion device, respectively.

(d) An owner or operator using a combustion device followed by a scrubber or other halogen reduction device to control halogenated vent streams in compliance with § 63.113(c)(1) shall conduct a performance test to determine compliance with the control efficiency or emission limits for hydrogen halides and halogens.

- \* \* \* \* \*

11. Section 63.117 is amended by revising paragraphs (a) introductory text, (a)(4)(iv), (a)(6) introductory text, and (a)(8) to read as follows:

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

(a) Each owner or operator subject to the control provisions for Group 1 process vents in § 63.113(a) or the provisions for Group 2 process vents with a TRE index value greater than 1.0 but less than or equal to 4.0 in § 63.113(d) shall:

- \* \* \* \* \*

(4) \* \* \*
(iv) For a boiler or process heater with a design heat input capacity of less than 44 megawatts and where the vent stream is introduced with combustion air or used as a secondary fuel and is not mixed with the primary fuel, the percent reduction of organic HAP or TOC, or the concentration of organic HAP or TOC (ppm by volume, by compound) determined as specified in § 63.116(c) at the outlet of the combustion device on a dry basis corrected to 3 percent oxygen.

(6) Record and report the following when using a scrubber following a combustion device to control a halogenated vent stream:

(8) Record and report the halogen concentration in the vent stream determined according to the procedures specified in § 63.115(d)(2)(v).

12. Section 63.118 is amended by revising paragraphs (a)(3), (e)(1), and (f)(3) to read as follows:

§ 63.118 Process vents provisions—Periodic reporting and recordkeeping requirements.

(3) Hourly records of whether the flow indicator specified under § 63.114(d)(1) was operating and whether a diversion was detected at any time during the hour, as well as records of the times and durations of all periods when the gas stream is diverted to the atmosphere or the monitor is not operating.

(e) \* \* \*
(1) Any process changes as defined in § 63.115(e) that increase the organic HAP concentration of the vent stream,

(f) \* \* \*
(3) Reports of the times and durations of all periods recorded under paragraph (a)(3) of this section when the gas stream is diverted to the atmosphere through a bypass line.

13. Section 63.128 is amended by revising paragraph (b) to read as follows:

§ 63.128 Transfer operations provisions—test methods and procedures.

(b) When a flare is used to comply with § 63.126(b)(2), the owner or operator shall comply with paragraphs (b)(1) through (3) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4). The observation period shall be as specified in paragraph (b)(1)(i) or (ii) of this section instead of the 2-hour period specified in § 63.11(b)(4).

(i) If the loading cycle is less than 2 hours, then the observation period for that run shall be for the entire loading cycle.

(ii) If additional loading cycles are initiated within the 2-hour period, then visible emission observations shall be conducted for the additional cycles.

(2) Determine the net heating value of the gas being combusted, using the techniques specified in § 63.11(b)(6).

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

\* \* \* \* \*

14. Section 63.132 is amended by revising paragraphs (a)(3) and (b)(4) to read as follows:

**§ 63.132 Process wastewater provisions—general.**

(a) \* \* \*

(3) *Requirements for Group 2 wastewater streams.* For wastewater streams that are Group 2 for table 9 compounds, comply with the applicable recordkeeping and reporting requirements specified in §§ 63.146(b)(1) and 63.147(b)(8).

(b) \* \* \*

(4) *Requirements for Group 2 wastewater streams.* For wastewater streams that are Group 2 for both table 8 and table 9 compounds, comply with the applicable recordkeeping and reporting requirements specified in §§ 63.146(b)(1) and 63.147(b)(8).

\* \* \* \* \*

15. Section 63.138 is amended by: a. Revising paragraphs (i) introductory text and (i)(2)(iii);

b. Adding a sentence to the end of paragraph (i)(1) introductory text and adding a sentence to the end of paragraph (i)(2)(i) introductory text;

c. Amending paragraph (i)(2) introductory text by revising the reference “(i)(2)(iv)” to read “(i)(3)”;

and d. Redesignating paragraph (i)(2)(iv) as paragraph (i)(3).

The revision additions read as follows:

**§ 63.138 Process wastewater provisions—performance standards for treatment processes managing Group 1 wastewater streams and/or residuals removed from Group 1 wastewater streams.**

\* \* \* \* \*

(i) *One megagram total source mass flow rate option.* A wastewater stream is exempt from the requirements of paragraphs (b) and (c) of this section if the owner or operator elects to comply with either paragraph (i)(1) or (i)(2) of this section, and complies with paragraph (i)(3) of this section.

(1) \* \* \* The owner or operator who meets the requirements of this paragraph (i)(1) of this section is exempt from the requirements of §§ 63.133 through 63.137.

\* \* \* \* \*

(2) \* \* \*

(i) \* \* \* When determining the total source mass flowrate for the purposes of paragraph (i)(2)(i)(B) of this section, the concentration and flow rate shall be determined at the location specified in paragraph (i)(2)(i)(B) of this section and not at the location specified in § 63.144(b) and (c).

\* \* \* \* \*

(iii) The owner or operator of each waste management unit that receives, manages, or treats a partially treated wastewater stream prior to or during treatment shall comply with the requirements of §§ 63.133 through 63.137, as applicable. For a partially treated wastewater stream that is stored, conveyed, treated, or managed in waste management unit meeting the requirements of §§ 63.133 through 63.137, the owner or operator shall follow the procedures in paragraph (i)(2)(i)(B) of this section to calculate mass flow rate. A wastewater stream, either untreated or partially treated, where the mass flow rate has been calculated following the procedures in paragraph (i)(2)(i)(A) of this section are exempt from the requirements of §§ 63.133 through 63.137.

\* \* \* \* \*

16. Section 63.145 is amended by revising paragraph (j) to read as follows:

**§ 63.145 Process wastewater provisions—test methods and procedures to determine compliance.**

\* \* \* \* \*

(j) When a flare is used to comply with § 63.139(c), the owner or operator shall comply with paragraphs (j)(1) through (3) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4).

(2) Determine the net heating value of the gas being combusted, using the techniques specified in § 63.11(b)(6).

(3) Determine the exit velocity using the techniques specified in either

§ 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

\* \* \* \* \*

17. Section 63.146 is amended by adding paragraph (b)(1) to read as follows:

**§ 63.146 Process wastewater provisions—reporting.**

\* \* \* \* \*

(b) \* \* \*

(1) *Requirements for Group 2 wastewater streams.* This paragraph does not apply to Group 2 wastewater streams that are used to comply with § 63.138(g). For Group 2 wastewater streams, the owner or operator shall include the information specified in paragraphs (b)(1)(i) through (iv) of this section in the Notification of Compliance Status Report. This information may be submitted in any form. Table 15 of this subpart is an example.

(i) Process unit identification and description of the process unit.

(ii) Stream identification code.

(iii) For existing sources, concentration of table 9 compound(s) in ppm, by weight. For new sources, concentration of table 8 and/or table 9 compound(s) in ppm, by weight. Include documentation of the methodology used to determine concentration.

(iv) Flow rate in liter per minute.

\* \* \* \* \*

18. Section 63.147 is amended by revising paragraphs (b) introductory text, (d) introductory text, and (d)(2), and by adding paragraphs (b)(8) and (d)(3) to read as follows:

**§ 63.147 Process wastewater provisions—recordkeeping.**

\* \* \* \* \*

(b) The owner or operator shall keep in a readily accessible location the records specified in paragraphs (b)(1) through (8) of the section.

\* \* \* \* \*

(8) *Requirements for Group 2 wastewater streams.* This paragraph (b)(8) of this section does not apply to Group 2 wastewater streams that are used to comply with § 63.138(g). For all other Group 2 wastewater streams, the owner or operator shall keep in a readily accessible location the records specified in paragraphs (b)(8)(i) through (iv) of this section in the Notification of Compliance Status Report.

(i) Process unit identification and description of the process unit.

(ii) Stream identification code.

(iii) For existing sources, concentration of table 9 compound(s) in ppm, by weight. For new sources,

concentration of table 8 and/or table 9 compound(s) in ppm, by weight. Include documentation of the methodology used to determine concentration.

(iv) Flow rate in liter per minute.

\* \* \* \* \*

(d) The owner or operator shall keep records of the daily average value of each continuously monitored parameter for each operating day as specified in § 63.152(f), except as provided in paragraphs (d)(1) through (3) of this section.

\* \* \* \* \*

(2) *Regenerative carbon adsorbers.* For regenerative carbon adsorbers, the owner or operator shall keep the records specified in paragraphs (d)(2)(i) and (ii) of this section instead of daily averages.

(i) Records of the total regeneration stream mass flow for each carbon bed regeneration cycle.

(ii) Records of the temperature of the carbon bed after each regeneration cycle.

(3) *Non-regenerative carbon adsorbers.* For non-regenerative carbon adsorbers using organic monitoring equipment, the owner or operator shall keep the records specified in paragraph (d)(3)(i) of this section instead of daily averages. For non-regenerative carbon adsorbers replacing the carbon adsorption system with fresh carbon at a regular predetermined time interval that is less than the carbon replacement interval that is determined by the maximum design flow rate and organic concentration in the gas stream vented to the carbon adsorption system, the owner or operator shall keep the records specified in paragraph (d)(3)(ii) of this section instead of daily averages.

(i)(A) Record of how the monitoring frequency, as specified in table 13 of this subpart, was determined.

(B) Records of when organic compound concentration of adsorber exhaust was monitored.

(C) Records of when the carbon was replaced.

(ii)(A) Record of how the carbon replacement interval, as specified in table 13 of this subpart, was determined.

(B) Records of when the carbon was replaced.

\* \* \* \* \*

19. Section 63.151 is amended by revising paragraphs (b)(1)(iii) and (e)(1) to read as follows:

**§ 63.151 Initial notification.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) An identification of the kinds of emission points within the source that are subject to this subpart;

\* \* \* \* \*

(e) \* \* \*

(1) A list designating each emission point complying with §§ 63.113 through 63.149 and whether each emission point is Group 1 or Group 2, as defined in § 63.111. For each process vent within the source, provide the information listed in paragraphs (e)(1)(i) through (iv) of this section.

(i) The chemical manufacturing process unit(s) that is the origin of all or part of the vent stream that exits the process vent.

(ii) The type(s) of unit operations (i.e., an air oxidation reactor, distillation unit, or reactor) that creates the vent stream that exits the process vent.

(iii) For a Group 2 process vent, the last recovery device, if any.

(iv) For a Group 1 process vent, the control device, or other equipment used for compliance.

\* \* \* \* \*

20. Section 63.152 is amended by adding a new paragraph (b)(6), revising paragraph (c)(4)(iv), and adding a new paragraph (d)(4) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(6) An owner or operator complying with § 63.113(i) shall include in the Notification of Compliance Status, or where applicable, a supplement to the Notification of Compliance Status, the name and location of the transferee, and

the identification of the Group 1 process vent.

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(iv) For gas streams sent for disposal pursuant to § 63.113(i) or for process wastewater streams sent for treatment pursuant to § 63.132(g), reports of changes in the identity of the transferee.

\* \* \* \* \*

(d) \* \* \*

(4) If an owner or operator transfers for disposal a gas stream that has the characteristics specified in § 63.107(b) through (h) or meets the criteria specified in § 63.107(i) to an off-site location or an on-site location not owned or operated by the owner or operator of the source and the vent stream was not included in the information submitted with the Notification of Compliance Status or a previous periodic report, the owner or operator shall submit a supplemental report. The supplemental report shall be submitted no later than [180 DAYS AFTER THE DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] or with the next periodic report, whichever is later. The report shall provide the information listed in paragraphs (d)(4)(i) through (iv) of this section.

(i) The chemical manufacturing process unit(s) that is the origin of all or part of the vent stream that exits the process vent.

(ii) The type(s) of unit operations (i.e., an air oxidation reactor, distillation unit, or reactor) that creates the vent stream that exits the process vent.

(iii) For a Group 2 process vent, the last recovery device, if any.

(iv) For a Group 1 process vent, the identity of the transferee.

\* \* \* \* \*

21. The appendix to subpart G is amended by revising tables 12 and 20 to read as follows:

**Appendix to Subpart G—Tables and Figures**

\* \* \* \* \*

TABLE 12.—MONITORING REQUIREMENTS FOR TREATMENT PROCESSES

To comply with	Parameters to be monitored	Frequency	Methods
1. Required mass removal of Table 8/and or Table 9 compound(s) from wastewater treated in a properly operated biological treatment unit § 63.138(f) § 63.138(g).	Appropriate parameters as specified in § 63.143(c) and approved by permitting authority.	Appropriate frequency as specified in § 63.143 and as approved by permitting authority.	Appropriate methods as specified in § 63.143 and as approved by permitting authority.
2. Steam stripper .....	Steam flow rate .....	Continuously .....	Integrating steam flow monitoring device equipped with a continuous recorder.

TABLE 12.—MONITORING REQUIREMENTS FOR TREATMENT PROCESSES—Continued

To comply with	Parameters to be monitored	Frequency	Methods
	Wastewater feed mass flow rate ..	Continuously .....	Liquid flow meter installed at stripper influent and equipped with a continuous recorder.
	Wastewater feed temperature .....	Continuously .....	Liquid temperature monitoring device installed at stripper influent and equipped with a continuous recorder.
3. Alternative monitoring parameters.	Other parameters may be monitored upon approval from the Administrator in accordance with the requirements specified in § 63.151(f).		
*	*	*	*

TABLE 20.—WASTEWATER—PERIODIC REPORTING REQUIREMENTS FOR CONTROL DEVICES USED TO COMPLY WITH §§ 63.13–63.139

Control device	Reporting requirements
Thermal incinerator .....	1. Report all daily average <sup>a</sup> temperatures that are outside the range established in the NCS <sup>b</sup> or operating permit and all operating days when insufficient monitoring data are collected. <sup>c</sup>
Catalytic incinerator .....	1. Report all daily average <sup>a</sup> temperatures that are outside the range established in the NCS <sup>b</sup> or operating permit. 2. Report all daily average <sup>a</sup> temperature differences across the catalyst bed that are outside the range established in the NCS <sup>b</sup> or operating permit. 3. Report all operating days when insufficient monitoring data are collected. <sup>c</sup>
Boiler or process heater with a design heat input capacity less than 44 megawatts and vent stream is not mixed with the primary fuel.	1. Report all daily average <sup>a</sup> firebox temperatures that are outside the range established in the NCS <sup>b</sup> or operating permit and all operating days when insufficient monitoring data are collected. <sup>c</sup>
Flare .....	1. Report the duration of all periods when all pilot flames are absent.
Condenser .....	1. Report all daily average <sup>a</sup> exit temperatures that are outside the range established in the NCS <sup>b</sup> or operating permit and all operating days when insufficient monitoring data are collected. <sup>c</sup>
Carbon adsorber (regenerative) .....	1. Report all carbon bed regeneration cycles when the total regeneration stream mass or volumetric flow is outside the range established in the NCS <sup>b</sup> or operating permit. 2. Report all carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration is outside the range established in the NCS <sup>b</sup> or operating permit. 3. Report all operating days when insufficient monitoring data are collected. <sup>c</sup>
Carbon adsorber (non-regenerative) .....	1. Report all operating days when inspections not done according to the schedule developed as specified in table 13 of this subpart. 2. Report all operating days when carbon has not been replaced at the frequency specified in table 13 of this subpart.
All control devices .....	1. Report the times and durations of all periods when the vent stream is diverted through a bypass line or the monitor is not operating, or 2. Report all monthly inspections that show the valves are moved to the diverting position or the seal has been changed.

<sup>a</sup> The daily average is the average of all values recorded during the operating day, as specified in § 63.147(d).

<sup>b</sup> NCS = Notification of Compliance Status described in § 63.152.

<sup>c</sup> The periodic reports shall include the duration of periods when monitoring data are not collected for each excursion as defined in § 63.152(c)(2)(ii)(A).

\* \* \* \* \*

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

22. Section 63.180 is amended by revising paragraph (e) to read as follows:

**§ 63.180 Test methods and procedures.**

\* \* \* \* \*

(e) When a flare is used to comply with § 63.172(d), the owner or operator shall comply with paragraphs (e)(1) through (3) of this section. The owner or operator is not required to conduct a

performance test to determine percent emission reduction or outlet organic HAP or TOC concentration.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4).

(2) Determine the net heating value of the gas being combusted, using the techniques specified in § 63.11(b)(6).

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8), as appropriate.

\* \* \* \* \*

**Appendix C—[Amended]**

- 23. Appendix C to part 63 is amended by:
  - a. Revising the third paragraph in section I;
  - b. Revising the introductory text to section III;
  - c. In section III.D.1, revising Eqn App.C–4 and the paragraph preceding it;
  - d. In section III.D.2, revising Eqn App.C–6 and the paragraph preceding it;
  - e. Adding section III.E;
  - f. Adding references 7 and 8 to the References section;
  - g. Revising Figure 1;
  - h. Adding Form XIII.

The additions and revisions read as follows:

**Appendix C to Part 63—Determination of the Fraction Biodegraded ( $f_{bio}$ ) in a Biological Treatment Unit**

*I. Purpose*

\* \* \* \* \*

Unless otherwise specified, the procedures presented in this appendix are designed to be applied to thoroughly mixed treatment units. A thoroughly mixed treatment unit is a unit that is designed and operated to approach or achieve uniform biomass distribution and organic compound concentration throughout the aeration unit by quickly dispersing the recycled biomass and the wastewater entering the unit. Detailed discussion on how to determine if a biological treatment unit is thoroughly mixed can be found in reference 7. Systems that are not thoroughly mixed treatment units should be subdivided into a series of zones that have uniform characteristics within each zone. The number of zones required to characterize a biological treatment system will depend on the design and operation of the treatment system. Detailed discussion on how to determine the number of zones in a biological treatment unit and examples of determination of  $f_{bio}$  can be found in reference 8. Each zone should then be modeled as a separate unit. The amount of air emissions and biodegradation from the modeling of these separate zones can then be added to reflect the entire system.

\* \* \* \* \*

*III. Procedures for Determination of  $f_{bio}$*

The first step in the analysis to determine if a biological treatment unit may be used

without being covered and vented through a closed-vent system to an air pollution control device, is to determine the compound-specific  $f_{bio}$ . The following procedures may be used to determine  $f_{bio}$ :

- (1) EPA Test Method 304A or 304B (appendix A, part 63)—Method for the Determination of Biodegradation Rates of Organic Compounds,
- (2) Performance data with and without biodegradation,
- (3) Inlet and outlet concentration measurements,
- (4) Batch tests,
- (5) Multiple zone concentration measurements.

All procedures must be executed so that the resulting  $f_{bio}$  is based on the collection system and waste management units being in compliance with the regulation. If the collection system and waste management units meet the suppression requirements at the time of the test, any of the procedures may be chosen. If the collection system and waste management units are not in compliance at the time of the performance test, then only Method 304A, 304B, or the batch test shall be chosen. If Method 304A, 304B, or the batch test is used, any anticipated changes to the influent of the full-scale biological treatment unit that will occur after the facility has enclosed the collection system must be represented in the influent feed to the benchtop bioreactor unit, or test unit.

Select one or more appropriate procedures from the five listed above based on the availability of site specific data and the type of mixing that occurs in the unit (thoroughly mixed or multiple mixing zone). If the facility does not have site-specific data on the removal efficiency of its biological treatment

unit, then Procedure 1 or Procedure 4 may be used. Procedure 1 allows the use of a benchtop bioreactor to determine the first-order biodegradation rate constant. An owner or operator may elect to assume the first order biodegradation rate constant is zero for any regulated compound(s) present in the wastewater. Procedure 4 explains two types of batch tests which may be used to estimate the first order biodegradation rate constant. An owner or operator may elect to assume the first order biodegradation rate constant is zero for any regulated compound(s) present in the wastewater. Procedure 3 would be used if the facility has, or measures to determine, data on the inlet and outlet individual organic compound concentration for the biological treatment unit. Procedure 3 may only be used on a thoroughly mixed treatment unit. Procedure 5 is the concentration measurement test that can be used for units with multiple mixing zones. Procedure 2 is used if a facility has or obtains performance data on a biotreatment unit prior to and after addition of the microbial mass. An example where Procedure 2 could be used is an activated sludge unit where measurements have been taken on inlet and exit concentration of organic compounds in the wastewater prior to seeding with the microbial mass and start-up of the unit. The flow chart in figure 1 outlines the steps to use for each of the procedures.

\* \* \* \* \*

*D. Batch Tests (Procedure 4)*

\* \* \* \* \*

1. \* \* \*

Equation App. C-3 can be integrated to obtain the following equation:

$$-t = \frac{VK_s}{A} \ln\left(\frac{s}{s_0}\right) + \frac{Q_m XV^2}{AB} \ln\left(\frac{A + Bs}{A + Bs_0}\right) \quad (\text{Eqn App. C-4})$$

Where:

$A = GK_{eq}K_s + Q_m VX$   
 $B = GK_{eq}$

$S_0$  = test compound concentration at  $t=0$

\* \* \* \* \*

Equation App. C-5 can be solved analytically to give:

$$t = \frac{-(V_g K_{eq} + V_l)}{V_l Q_m X} \left[ (s - s_0) + K_s \ln\left(\frac{s}{s_0}\right) \right] \quad (\text{Eqn App. C-6})$$

*E. Multiple Zone Concentration Measurements (Procedure 5)*

Procedure 5 is the concentration measurement method that can be used to determine the  $f_{bio}$  for units that are not thoroughly mixed and thus have multiple zones of mixing. As with the other procedures, proper determination of  $f_{bio}$  must be made on a system as it would exist under the rule. For purposes of this calculation, the

biological unit must be divided <sup>1</sup> into zones with uniform characteristics within each zone. The number of zones that is used depends on the complexity of the unit. Reference 8, "Technical Support Document for the Evaluation of Aerobic Biological Treatment Units with Multiple Mixing Zones," is a source for further information concerning how to determine the number of zones that should be used for evaluating your unit.

<sup>1</sup> This is a mathematical division of the actual unit; not addition of physical barriers.

The following information on the biological unit must be available to use this procedure: basic unit variables such as inlet and recycle wastewater flow rates, type of agitation, and operating conditions; measured representative organic compound concentrations in each zone and the inlet and outlet; and estimated mass transfer coefficients for each zone. The estimated mass transfer coefficient for each compound in each zone is obtained from Form II using the characteristics of each zone. A computer model may be used. If the Water7 model

or the most recent update to this model is used, then use Form II-A to calculate KL. The TOXCHEM or BASTE model may also be used to calculate KL for the biological treatment unit, with the stipulations listed in Procedure 304B. Compound concentration measurements for each zone are used in Form XIII to calculate the  $f_{bio}$ . A copy of Form XIII is

completed for each of the compounds of concern treated in the biological unit.

\* \* \* \* \*

References

\* \* \* \* \*

- 7. Technical Support Document for Evaluation of Thoroughly Mixed

Biological Treatment Units. November 1998.

- 8. Technical Support Document for the Evaluation of Aerobic Biological Treatment Units with Multiple Mixing Zones.

\* \* \* \* \*

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Figure 1. ALTERNATIVE EXPERIMENTAL METHODS FOR DETERMINING THE FRACTION OF ORGANIC COMPOUND BIODEGRADED (Fbio) IN A BIOLOGICAL TREATMENT UNIT

**FORM XIII. DATA FORM FOR THE ESTIMATION OF MULTIPLE ZONE BIODEGRADATION FROM UNIT CONCENTRATIONS**

NAME OF THE FACILITY for site specific biorate determination	
COMPOUND for site specific biorate determination	
Number of zones in the biological treatment unit	1
VOLUME of full-scale system (cubic meters)	2
Average DEPTH of the full-scale system (meters)	3
FLOW RATE of wastewater treated in the unit (m <sup>3</sup> /s)	4
Recycle flow of wastewater added to the unit, if any (m <sup>3</sup> /s)	5
Concentration in the wastewater treated in the unit (mg/L)	6
Concentration in the recycle flow, if any (mg/L)	7
Concentration in the effluent (mg/L).	8

TOTAL INLET FLOW (m <sup>3</sup> /s) line 4 plus the number on line 5	9
TOTAL RESIDENCE TIME (s) line 2 divided by line 9.	10
TOTAL AREA OF IMPOUNDMENT (m <sup>2</sup> ) line 2 divided by line 3	11

Zone number	Concentration for zone, C <sub>i</sub> (mg/L)	Area of the zone, A (m <sup>2</sup> )	Estimate of KL in the zone (m/s) from Form II	AIR STRIPPING
				KL A C <sub>i</sub> (g/s)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
TOTALS sum for each zone.	12		13	

Removal by air stripping (g/s). Line 13.	14
Loading in effluent (g/s). Line 8 times line 9.	15
Total loading (g/s). (Line 5 * line 7) + (line 4* line 6).	16
Removal by biodegradation (g/s) Line 16 minus (line 14 + line 15).	17
Fraction biodegraded: Divide line 17 by line 16..	18
Fraction air emissions: Divide line 14 by line 16.	19
Fraction remaining in unit effluent: Divide line 15 by line 16.	20