

VERMONT NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/ effective date	EPA approved date	Explanations
State Implementation Plan narrative.	.....	Submitted 08/09/93 .....	01/10/95, 60 FR 2524 .....	(c)(21) State of Vermont Air Quality Implementation Plan dated February, 1993. To meet the emission statement requirement of the CAAA of 1990.
Revisions to the State Implementation Plan.	.....	Submitted 02/03/93, 08/09/93, and 08/10/94.	04/22/98, 63 FR 19828 .....	(c)(25)State of Vermont: Air Quality Implementation Plan dated August 1993.
Revisions to the State Implementation Plan.	.....	Submitted .....	07/10/00, 65 FR 42290 .....	(c)(26)letter from VT Air Pollution Control Division dated July 28, 1998 stating a negative declaration for the aerospace coating operations CTG category.

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 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[AD-FRL-6866-3]

**National Emission Standards for Halogenated Solvent Cleaning**

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

**ACTION:** Final rule; corrections and clarifications.

**SUMMARY:** This action promulgates corrections and several clarifications to the amendments to the “National Emission Standards for Halogenated Solvent Cleaning” promulgated on December 3, 1999 (64 FR 67793). The amendments finalized compliance options for continuous web cleaning. These corrections and clarifications ensure that all owners or operators of solvent cleaning machines have appropriate and understandable requirements for their cleaning machines.

**EFFECTIVE DATE:** September 8, 2000.

**ADDRESSES:** Interested parties may review items used to support these final rule amendments at: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-92-39, Room M-1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the standards, contact Mr. Paul Almodovar, Coatings and Consumer Products Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-0283.

For information regarding the applicability of this action to a particular entity, contact Ms. Acquanetta Delaney, Manufacturing Branch, Office of Compliance (2224A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202) 564-7061.

**SUPPLEMENTARY INFORMATION:** *Docket.* The docket number for this rulemaking is A-92-39. The docket is an organized file of information compiled by 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 docket contains the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act.)

*World Wide Web (WWW).* In addition to being available in the docket, an electronic copy of this proposed rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN’s policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

*Regulated Entities.* The following entities are potentially regulated by this final rule.

Category	SIC codes	Examples of potentially regulated entities
Industry .....	33, 34, 36, and 37 .....	Facilities engaging in cleaning operations using halogenated solvent cleaning machines.

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This list includes the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed could also be affected. To determine whether your facility or company is regulated by this final rule,

you should carefully examine the applicability criteria in § 63.460 of the promulgated rule. If you have any questions regarding the applicability of this final rule to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**I. What Is the Purpose of This Action?**

The purpose of this action is to provide corrections and several clarifications to the December 3, 1999 (64 FR 67793) final rule changes to the halogenated solvent cleaning national emission standards for hazardous air pollutants (NESHAP). The corrections fix an incorrect cross reference included

in the revised regulatory text and add regulatory language that was inadvertently omitted from the revised regulatory text. The clarifications ensure that the original intent of the revised language is clearly presented. These corrections and clarifications do not change any requirements for any sources.

## II. What Corrections and Clarifications Are Included in This Action?

### A. Corrected Cross Reference to § 63.463(g)(3)(vii) and Clarification to § 63.463(h)(2)(v)

Section 63.463(g)(3)(vii), which outlines requirements for continuous web cleaning machines that use an exhaust within the machine, included an incorrect cross reference. The reference to the carbon adsorber requirements of paragraph (e)(2)(ii) is a typographical error and should read (e)(2)(vii). This error is being corrected in today's action.

In addition, as stated in the December 3, 1999 **Federal Register** document preamble (64 FR 67795), EPA intended this section to allow for a carbon adsorption (CAD) system that meets either the 100 parts per million standard (*i.e.*, § 63.463(e)(2)(vii)) or the 70 percent efficient system (*i.e.*, § 63.463(g)(2)) requirement. Therefore, the reference to the 70 percent efficient system requirement has been added to § 63.463(g)(3)(vii).

Section 63.463(h)(2)(v) for remote reservoir continuous web cleaning machines was intended by EPA to be a parallel requirement to § 63.463(g)(3)(vii) for other continuous web cleaning machines. The reference in § 63.463(g)(3)(vii) to the CAD requirements was correct in the December 3, 1999 **Federal Register** amendments. However, the reference to the exhaust requirements could be misinterpreted. Therefore, EPA is making the same clarifying revisions to reference the 70 percent efficient system requirements in § 63.463(h)(2)(v) as discussed above.

### B. Clarification That § 63.463(e)(2)(vii) Applies to All Exhausts Within a Machine

The language in § 63.463(e)(2)(vii) is being modified to be parallel to the language in § 63.463(g)(3)(vii) and § 63.463(h)(2)(v). This clarifies EPA's intent that all exhausts within any cleaning machine are required to be vented to a properly operated and maintained CAD system.

### C. Addition of Exemption for Steam-Heated Units

In Section III.B of the December 3, 1999 **Federal Register** preamble (64 FR 67796), EPA stated that steam-heated units would no longer be required to have a device that shuts off the sump heat if the level drops to the sump heat coils. The EPA inadvertently omitted this change to § 63.463(a)(4) from the promulgated changes. This omission has been corrected. In addition, a similar exclusion has been added to the parallel requirements for continuous web cleaning machines.

### D. Clarification That the New Alternative Standard Applies to Entire Cleaning Systems

When developing the alternative standard for continuous web cleaning machines in § 63.463(d), EPA considered whether the option should apply to single or multiple continuous web cleaning machines. The EPA understood that some systems exist that would make compliance on an individual basis difficult or unnecessarily burdensome. For example, EPA learned of situations where more than one continuous web cleaning machine was routed through a single CAD system. The EPA did not want to preclude the use of such systems when they could comply with the maximum achievable control technology standard.

The compliance method included in § 63.465(g) was selected because it allowed for a determination of overall control efficiency of a system, whether that system comprised one or multiple continuous web cleaning machines. The ability to use Equation 8 in § 63.465(h)(1) for an entire system is clarified in § 63.464(d). In addition, the definitions of the variables for Equation 8 in § 63.465(h)(1) have been corrected to read "solvent cleaning system" instead of "solvent cleaning machine."

### E. Clarification of the Term $R_i$ in Equation 8

The term  $R_i$  in Equation 8 of § 63.465 has been clarified in this action. The intent of the term,  $R_i$ , in the original equation was to represent the amount of chlorinated solvent recovered by the CAD system and recycled through the solvent cleaning system. This amount divided by the total usage in the system (*i.e.*, the denominator of Equation 8 of § 63.465) provides an overall cleaning system control efficiency.

Through some questions from industry since the December 3, 1999 amendments were published, it has become apparent to EPA that the term

may be confusing. Some have questioned whether this term was meant to cover all solvent that is recirculated through the system, including liquid recycled through a distillation unit and solvent recovered from the CAD system. It was never EPA's intent that  $R_i$  be interpreted to be the total amount of solvent recirculated through a system. Therefore, EPA has clarified the definition of the term  $R_i$  by changing the phrase "solvent recycled" to the phrase "solvent recovered from the CAD system and recycled."

### F. Clarification of § 63.465(b)

The EPA is modifying § 63.465(b) to remove an unnecessary cross reference to § 63.465(f). This reference is unnecessary since § 63.465(b) only refers to sources complying with the alternative standards of § 63.464, while paragraph (f) of § 63.465 includes requirements that only apply to sources complying with the standards in § 63.463.

### G. Addition of References to § 63.463(h) in § 63.463(e)

The EPA inadvertently excluded references to paragraph § 63.463(h), which includes the requirements for remote-reservoir continuous web cleaning machines, in the paragraphs that discussed the requirements for squeegee systems, air-knife systems, and combine squeegee and air-knife systems in § 63.463(e). The EPA has corrected this oversight in today's action by revising the introductory paragraph to § 63.463(e)(ix), (x), and (xi) to include a reference to § 63.463(h).

## III. Impacts

The changes contained in these final rule amendments are corrections and clarifications and do not change the intended coverage of the halogenated solvent cleaning NESHAP (40 CFR part 63, subpart T). These changes will not affect the estimated emissions reductions or the control costs for these standards. These clarifications and corrections should make it easier for owners and operators of affected sources and for local and State authorities to understand and implement the requirements in 40 CFR part 63, subpart T.

## IV. Administrative Requirements

### A. Executive Order 12866, Regulatory Planning and Review

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

the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in 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, or 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.

Pursuant to the terms of Executive Order 12866, it has been determined that this final rule does not qualify as a "significant regulatory action" under the terms of Executive Order 12866 and, therefore, is not subject to review by OMB.

#### B. Executive Order 13132 (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 section 6 of 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.

This 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. This final rule only provides amendments to ensure that all owners or operators of solvent cleaning machines have appropriate and attainable requirements for their cleaning machines. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### C. Executive Order 13084, Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, 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 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."

These final rule amendments do not impose any duties or compliance costs on Indian tribal governments. Further, the final rule amendments provided herein do not significantly alter the control standards imposed by the halogenated solvent cleaning NESHAP for any source, including any that may affect communities of the Indian tribal governments. Hence, today's final rule amendments do not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply.

#### D. 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 EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, 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, so that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. These final rule amendments are not subject to Executive Order 13045 because they are not an "economically significant" regulatory action as defined by Executive Order 12866 and are based on technology performance rather than health or risks that may disproportionately affect children.

#### E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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 the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in aggregate, or by 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 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 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 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 these final rule amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate or the private sector in any 1 year, and that these final rule amendments do not significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. The EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least-costly, most cost-effective, or least-burdensome alternative.

In addition, because small governments will not be significantly or uniquely affected by these final rule amendments, the EPA is not required to develop a plan with regard to small governments. Therefore, the requirements of the UMRA do not apply.

*F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601, et seq.*

The RFA requires 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 must prepare a regulatory flexibility analysis unless EPA certifies that the rule will not have a "significant impact on a substantial number of small entities." Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions.

These final rule amendments would not have a significant impact on a substantial number of small entities because they clarify and make corrections to the promulgated halogenated solvent cleaning NESHAP, but impose no additional regulatory requirements on owners or operators of affected sources.

#### *G. Paperwork Reduction Act*

The Information Collection Request (ICR) was submitted to the OMB under the *Paperwork Reduction Act* (44 U.S.C. 3501, *et seq.*) at the time this rule was originally promulgated. These final rule amendments to the halogenated solvent cleaning NESHAP will have no impact on the information collection burden estimates made previously. Therefore, the ICR has not been revised.

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

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when EPA does not use available and applicable voluntary consensus standards. This action does not involve the proposal of any new technical standards.

#### *I. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the SBREFA, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. These final amendments are not a "major rule" as defined by 5 U.S.C. 804(2).

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

Environmental protection, Air pollution control, Continuous web cleaning, Film cleaning, Halogenated solvent cleaning machines, Hazardous substances.

Dated: August 29, 2000.

**Robert D. Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

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

#### **PART 63—[AMENDED]**

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

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

#### **Subpart T—National Emission Standards for Halogenated Solvent Cleaning**

2. Section 63.463 is amended by:
- Revising paragraph (a)(4);
  - Revising paragraph (d)(10);
  - Revising paragraphs (e) introductory text, (e)(2)(vii) introductory text, (ix) introductory text, (x) introductory text, and (xi) introductory text;
  - Revising paragraphs (g)(3)(iv) and (vii); and
  - Revising paragraph (h)(2)(v).
- The revisions read as follows:

#### **§ 63.463 Batch vapor and in-line cleaning machine standards.**

(a) \* \* \*

(4) Each vapor cleaning machine shall be equipped with a device that shuts off the sump heat if the sump liquid solvent level drops to the sump heater coils. This requirement does not apply to a vapor cleaning machine that uses steam to heat the solvent.

\* \* \* \* \*

(d) \* \* \*

(10) Each operator of a solvent cleaning machine shall complete and pass the applicable sections of the test of solvent cleaning procedures in appendix A to this part if requested during an inspection by the Administrator.

\* \* \* \* \*

(e) Each owner or operator of a solvent cleaning machine complying with paragraph (b), (c), (g), or (h) of this section shall comply with the requirements specified in paragraphs (e)(1) through (4) of this section.

\* \* \* \* \*

(2) \* \* \*

(vii) If a carbon adsorber in conjunction with a lip exhaust or other exhaust internal to the cleaning machine is used to comply with these standards, the owner or operator shall comply with the following requirements:

\* \* \* \* \*

(ix) If a squeegee system is used to comply with the continuous web

cleaning requirements of paragraph (g)(3)(iii) or (h)(2)(i) of this section, the owner or operator shall comply with the following requirements.

\* \* \* \* \*

(x) If an air knife system is used to comply with the continuous web cleaning requirements of paragraph (g)(3)(iii) or (h)(2)(i) of this section, the owner or operator shall comply with the following requirements.

\* \* \* \* \*

(xi) If a combination squeegee and air knife system is used to comply with the continuous web cleaning requirements of paragraph (g)(3)(iii) or (h)(2)(i) of this section, the owner or operator shall comply with the following requirements.

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

(iv) Each vapor cleaning machine shall be equipped with a device that shuts off the sump heat if the sump liquid solvent level drops to the sump heater coils. This requirement does not apply to a vapor cleaning machine that uses steam to heat the solvent.

\* \* \* \* \*

(vii) Each cleaning machine that uses a lip exhaust or any other exhaust within the solvent cleaning machine shall be designed and operated to route all collected solvent vapors through a properly operated and maintained carbon adsorber that meets the requirements of either paragraph (e)(2)(vii) or (g)(2) of this section.

\* \* \* \* \*

(h) \* \* \*

(2) \* \* \*

(v) Each cleaning machine that uses a lip exhaust or any other exhaust within the solvent cleaning machine shall be designed and operated to route all collected solvent vapors through a properly operated and maintained carbon adsorber that meets the requirements of either paragraph (e)(2)(vii) or (g)(2) of this section.

\* \* \* \* \*

3. Section 63.464 is amended by revising paragraph (d) to read as follows:

**§ 63.464 Alternative standards.**

\* \* \* \* \*

(d) As an alternative to meeting the requirements in § 63.463, each owner or operator of a continuous web cleaning machine can demonstrate an overall cleaning system control efficiency of 70 percent or greater using the procedures in § 63.465(g). This demonstration can be made for either a single cleaning machine or for a solvent cleaning

system that contains one or more cleaning machines and ancillary equipment, such as storage tanks and distillation units. If the demonstration is made for a cleaning system, the facility must identify any modifications required to the procedures in § 63.465(g) and they must be approved by the Administrator.

4. Section 63.465 is amended by revising paragraph (b) and (h)(1) to read as follows:

**§ 63.465 Test methods.**

\* \* \* \* \*

(b) Except as provided in paragraph (g) of this section for continuous web cleaning machines, each owner or operator of a batch vapor or in-line solvent cleaning machine complying with § 63.464 shall, on the first operating day of every month ensure that the solvent cleaning machine system contains only clean liquid solvent. This includes, but is not limited to, fresh unused solvent, recycled solvent, and used solvent that has been cleaned of soils. A fill line must be indicated during the first month the measurements are made. The solvent level within the machine must be returned to the same fill-line each month, immediately prior to calculating monthly emissions as specified in paragraph (c) of this section. The solvent cleaning machine does not have to be emptied and filled with fresh unused solvent prior to the calculations.

\* \* \* \* \*

(h) \* \* \*

(1) Using the records of all solvent additions, solvent deletions, and solvent recovered from the carbon adsorption system for the previous monthly reporting period required under § 63.467(e), determine the overall cleaning system control efficiency ( $E_o$ ) using Equation 8 of this section as follows:

$$E_o = R_i / (R_i + Sa_i - SSR_i) \quad (\text{Eq. 8})$$

Where:

$E_o$  = overall cleaning system control efficiency.

$R_i$  = the total amount of halogenated HAP liquid solvent recovered from the carbon adsorption system and recycled to the solvent cleaning system during the most recent monthly reporting period, i, (kilograms of solvent per month).

$Sa_i$  = the total amount of halogenated HAP liquid solvent added to the solvent cleaning system during the most recent monthly reporting period, i, (kilograms of solvent per month).

$SSR_i$  = the total amount of halogenated HAP solvent removed from the

solvent cleaning system in solid waste, obtained as described in paragraph (c)(2) of this section, during the most recent monthly reporting period, i, (kilograms of solvent per month).

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

[FRL-6864-8]

**Establishment of Alternative Compliance Periods Under the Anti-Dumping Program**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Clean Air Act as amended in 1990 ("the Act") directs the Environmental Protection Agency ("EPA" or "we") to issue regulations requiring reformulated gasoline for major metropolitan areas with the worst ozone air pollution problems. Other areas with ozone levels exceeding the public health standards may voluntarily choose to participate in the federal reformulated gasoline program. In order to ensure that the "dirtier" components of reformulated gasoline are not dumped into gasoline sold in areas not participating in the reformulated gasoline program ("conventional gasoline" areas), the Act requires EPA to ensure that the quality of conventional gasoline does not fall below 1990 levels. The Act also mandates that we establish an appropriate compliance period or compliance periods associated with meeting the anti-dumping standards. Under the existing regulations for reformulated gasoline and anti-dumping, the compliance period is one year. However, we believe that in certain limited circumstances a longer conventional gasoline anti-dumping may be appropriate on a temporary basis. Such an alternative compliance period is only appropriate for a refiner who produces conventional gasoline and who is starting up a refinery and facing significant hardship in complying with the anti-dumping statutory baseline NO<sub>x</sub> standard. Moreover, we believe that it is appropriate for any refinery subject to an alternative compliance period to meet additional substantive and administrative requirements to ensure that there is no environmental detriment as a result of the longer averaging period. This direct final rule sets forth procedures for