ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7057–1]

RIN 2060–AH75

National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for hydrochloric acid (HCl) production facilities, including HCl production at fume silica facilities. The EPA has identified these facilities as major sources of hazardous air pollutants (HAP) emissions, primarily HCl. Hydrochloric acid is associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (for example, effects on the central nervous system, blood, and heart) and acute health disorders (for example, irritation of eyes, throat, and mucous membranes and damage to the liver and kidneys).

These proposed NESHAP would implement section 112(d) of the Clean Air Act (CAA) by requiring all HCl production facilities that are major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The EPA estimates that these proposed NESHAP would reduce nationwide emissions of HAP from HCl production by approximately 1,620 Megagrams per year (Mg/yr) (1,790 tons per year (tpy)). The emissions reductions achieved by these proposed NESHAP, when combined with the emissions reductions achieved by other similar standards, would provide protection to the public and achieve a primary goal of the CAA.

DATES: *Comments.* Submit comments on or before November 19, 2001.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 9, 2001, a public hearing will be held on October 18, 2001.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–41, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–41, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. in EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–99–41 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Maxwell, Combustion Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5430; facsimile number (919) 541–5450; electronic mail address maxwell.bill@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Comments submitted by e-mail must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments will also be accepted on disks in WordPerfect® version 5.1, 6.1, or 8 file format. All comments and data submitted in electronic form must note the docket number: A–99–41. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Bill Maxwell, c/o OAQPS Document Control Officer (Room 740B), U.S. Environmental Protection Agency, 411 West Chapel Hill Street, Durham, NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. A request for a public hearing must be made by the date specified under the DATES section. People interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact: Ms. Kelly Hayes, Combustion Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5578 at least 2 days in advance of the public hearing. People interested in attending the public hearing must also call Ms. Hayes to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Docket. The docket is an organized and complete file of all the information considered in the development of this proposed rule. The docket is a dynamic file because material is added throughout the rulemaking process. 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 will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this proposed rule are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed rule will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules http://www.epa.gov/ttn/oarpg. Additional related information may also be found on the Air Toxics Website at http://www.epa.gov/ttn/atw/. 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. Categories and entities potentially affected by this action include:

Category	SIC [a]	NAICS [b]	Regulated entities
Industry	2819 2821 2869	325188 325211 325199	Hydrochloric Acid Production.

[a] Standard Industrial Classification.
[b] North American Information Classification System.

This table is not intended to be exhaustive, but rather a guide regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in section § 63.8985 of the proposed NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Hydrochloric acid production and fume silica production were listed as source categories under the production of inorganic chemicals group on EPA's initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576).[1] Today, we are combining these two source categories for regulatory purposes under the production of inorganic chemicals group and renaming the source category as HCl production. The next revision to the source category list will reflect this change. Major sources of HAP are those that have the potential to emit greater than 9 Mg/yr (10 tpy) of any one HAP or 23 Mg/yr (25 tpy) of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

[1] Later listing notices (e.g., 66 FR 8220) refer to the source category as ''fumed'' silica.

The MACT floor is the minimum level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which we have emissions information) in the category or subcategory or by the best-performing 5 sources (for which we have or could reasonably obtain emissions information) for categories or subcategories with fewer than 30 sources.

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, non-air quality health and environmental impacts, and energy impacts.

C. What Are the Health Effects Associated with HCl Emissions?

The primary HAP emitted from HCl production is HCl. Chlorine gas is also emitted. We do not have the type of current detailed data on each of the facilities covered by the emissions standards for this source category, nor for the people living around the facilities, that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described below occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the proposed rule will

reduce emissions and subsequent exposures.

A discussion of the HAP-specific health effects is discussed below.

1. Hydrochloric Acid

Hydrochloric acid is corrosive to the eyes, skin, and mucous membranes. Acute (short-term) inhalation exposure may cause eye, nose, and respiratory tract irritation and inflammation and pulmonary edema in humans. Chronic (long-term) occupational exposure to HCl has been reported to cause gastritis, bronchitis, and dermatitis in workers. Prolonged exposure to low concentrations may also cause dental discoloration and erosion. No information is available on the reproductive or developmental effects of HCl in humans. In rats exposed to HCl by inhalation, altered estrus cycles have been reported in females and increased fetal mortality and decreased fetal weight have been reported in offspring. We have not classified HCl for carcinogenicity.

2. Chlorine

Acute exposure to high levels of chlorine in humans can result in chest pain, vomiting, toxic pneumonitis, and pulmonary edema. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs. Chronic exposure to chlorine gas in workers has resulted in respiratory effects including eye and throat irritation and airflow obstruction. Animal studies have reported decreased body weight gain, eye and nose irritation, nonneoplastic nasal lesions, and respiratory epithelial hyperplasia from chronic inhalation exposure to chlorine. No information is available on the carcinogenic effects of chlorine in humans from inhalation exposure. We have not classified chlorine for potential carcinogenicity.

II. Summary of the Proposed Standards

A. What Is the Source Category?

The HCl production source category and the fume silica source category include HCl production facilities that are, or are part of, a major source of HAP emissions. The proposed rule defines an HCl production facility as the collection of equipment used to produce, store, and transfer for shipping HCl at a concentration of 10 percent by weight or greater. In other words, an HCl production facility is any process that routes a gaseous stream that contains HCl to an absorber, thereby creating a liquid HCl product. As noted above, to be covered by the proposed rule, the concentration of HCl in the liquid aqueous product must be 10 percent or greater, by weight.

There are numerous types of processes that produce the HCl-containing stream that is the starting point for an HCl facility. These include organic and inorganic chemical manufacturing processes that produce HCl as a by-product; the reaction of salts and sulfuric acid (Mannheim process); the reaction of a salt, sulfur dioxide, oxygen, and water (Hargreaves process); the combustion of chlorinated organic compounds; the direct synthesis of HCl via the burning of chlorine in the presence of hydrogen; and fume silica production, including the combustion of silicon tetrachloride in hydrogen-oxygen furnaces. The proposed rule is ''blind'' to the type of process that generates the HCl, as an HCl production facility begins at the point where the HCl-containing stream enters the absorber. For this reason, we decided to combine fume silica HCl production with other HCl production facilities and regulate both under this NESHAP.

The proposed rule excludes HCl production facilities under certain circumstances. First, even if 10-percent HCl (or greater) is produced, an HCl production facility is not subject to the proposed rule if all of the HCl and chlorine vent streams from the equipment (including absorbers, storage tanks and transfer operations) at the HCl production facility are recycled or routed to another process prior to being discharged to the atmosphere.

In addition, the proposed rule excludes certain HCl production facilities that are part of other source categories. Only around 5 percent of HCl is produced via a process where HCl is the primary intended product. Most HCl is produced as a by-product of other processes. Some of these processes are, or will be, subject to other Federal air pollution standards. For example, some operations produce liquid HCl following the incineration of chlorinated waste gas streams. If these operations are subject to the Hazardous Organic NESHAP (HON) requirements for HCl control after an incinerator that is used as a control device for halogenated group 1 process vents, that source is exempt from the proposed HCl NESHAP. The proposed NESHAP also excludes HCl production facilities when the operations that produce HCl are part of an affected source of another part 63 standard (e.g., the Steel Pickling NESHAP). For a more detailed discussion of these exclusions and how the proposed source category was selected, see section III.A of this preamble.

B. What Are the Primary Sources of Emissions and What Are the Emissions?

The primary HAP known to be released from HCl production is HCl. Chlorine may also be emitted from HCl production. While HCl is produced through many different types of processes (discussed above), potential HCl and chlorine emission sources are essentially the same for all processes. These potential emission sources include process vents, storage tanks, transfer operations, equipment leaks, and wastewater.

1. Types of Emission Sources

Most HCl production processes begin with a gaseous stream containing HCl. The stream can be a by-product stream from another process, an outlet stream from a combustion device that is treating chlorinated organic compounds, or a stream from a direct synthesis reaction furnace where hydrogen and chlorine are burned. No matter the origin of the HCl-containing stream, the process from that point forward is basically the same. The gaseous HCl-containing stream is routed to an HCl recovery absorption column, where the HCl is absorbed into either water or dilute HCl. The liquid leaving this column contains concentrated HCl.

The gaseous stream leaving the absorption column contains HCl that was not absorbed into the liquid in the tower and any chlorine present in the inlet stream. This outlet stream may be routed (or recycled) to another process, in which case it is no longer part of the HCl production affected source. However, if the outlet stream is directly discharged to the atmosphere or it is routed through other recovery/control devices before being discharged to the atmosphere, it is considered a process vent from an HCl production process.

If the liquid HCl leaving the absorption tower is routed to a storage tank, there is the potential for HCl emissions from the tank. The storage tanks are typically atmospheric storage tanks, and working loss emissions will occur as the tank is filled and emptied. While less significant, there are also breathing losses from atmospheric temperature and pressure changes. There is also the potential for emissions when HCl is loaded from a storage tank to a tank truck or rail car. Plants often reduce HCl emissions from storage tanks and transfer operations by using a scrubber.

Another potential source of HCl emissions is fugitive losses from equipment leaks. However, owners and operators of HCl production processes presumably have an incentive to

identify and repair equipment leaks of HCl and chlorine because of their highly corrosive nature. The leaks can be easily identified, as the presence of ambient moisture (humidity) results in rapid corrosion on or around leaking equipment components.

The bottoms from scrubbers used to reduce HCl and chlorine emissions from process vents, storage vessels, and transfer operations are typically routed to wastewater treatment systems. In most cases, the HCl or chlorine has been chemically converted in the scrubber to sodium hypochlorite (bleach). Any residual chlorine or HCl would be quite small. We estimate that wastewater emissions represent less than 1 percent of total emissions from the source category. Therefore, we believe that wastewater streams do not represent a significant potential source of emissions.

2. Estimated Emissions

We have calculated the nationwide baseline emissions for each of the HCl production facility emission sources. Process vents emit a total of 2,810 Mg/yr (3,100 tpy) of combined HCl and chlorine emissions. Storage tanks emit 54 Mg/yr (59 tpy) of HCl, transfer operations emit 16 Mg/yr (17 tpy) of HCl, leaking equipment emits 240 Mg/yr (270 tpy) of HCl, and wastewater emits 11 Mg/yr (13 tpy) HCl. Total baseline emissions from the industry are 3,130 Mg/yr (3,450 tpy).

C. What Is the Affected Source?

The proposed rule defines the HCl production facility as the affected source. The affected source contains the five emission points described in the previous section: process vents, storage tanks, transfer operations, leaking equipment, and wastewater treatment operations. However, as described in section III.D of this preamble, there are no emission limitations or other requirements for wastewater treatment operations in the proposed rule.

D. What Are the Emission Limitations and Work Practice Standards?

We are proposing that new and existing affected sources maintain an outlet concentration of less than or equal to 12 parts per million by volume (ppmv) HCl and 20 ppmv chlorine from each process vent, determined using EPA Test Method 26A of 40 CFR part 60, appendix A. The proposed rule also would require that owners or operators establish site-specific operating limits for the final control device, based on monitored parameters and levels established during the performance test. For example, if you use a caustic scrubber to meet the emission limits, you must maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test. You also must maintain the daily average scrubber effluent pH within the operating range value established during the performance test.

For each storage tank and transfer operation at a new or existing affected source, the HCl emission limit (an outlet concentration of 12 ppmv or less) and operating limits are the same as for process vents. There are no chlorine emissions from these sources.

For leaking equipment, we are proposing a work practice standard. We would require you to prepare, and at all times operate according to, an equipment leak detection and repair (LDAR) plan that describes in detail the measures that will be put in place to control leaking equipment emissions at the facility. You would be required to submit the plan to the designated permitting authority on or before the compliance date.

We are not proposing any emission limitations or work practice standards for wastewater treatment, for the reasons discussed in section III(D)(5) of this preamble.

E. What Are the Performance Testing, Initial Compliance, and Continuous Compliance Requirements?

For process vents at new and existing affected sources, we are proposing to require that you demonstrate initial compliance by conducting a performance test that demonstrates that emissions are at an outlet concentration of less than or equal to 12 ppmv HCl and 20 ppmv chlorine. You must also establish site-specific operating limits based on control device parameters. These operating limits would be established for each parameter based on monitoring conducted during the initial performance test when the outlet concentration of both pollutants is less than or equal to the required emission limits (as reported in the facility's Notification of Compliance Status report).

Specifically for water or caustic scrubbers, which we believe will be the control device of choice in most situations, the proposed rule would require that you establish operating limits for pH of the scrubber effluent and the scrubber liquid inlet flow rate. For any other type of control device, you would be required to establish the operating limits based on an approved monitoring plan that identifies appropriate parameters. Continuous compliance would be demonstrated by these monitored parameters staying within the operating limits.

The HCl emission limit and associated operating limits for new and existing storage tanks and transfer operations are the same as those for process vents.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

We are proposing to require owners or operators of affected sources to submit the following notification and reports:

- Initial Notification.
- Notification of Intent to Conduct a Performance Test.
- Notification of Compliance Status (NOCS).
- Compliance Reports.
- Startup, Shutdown, and Malfunction Reports.

We would require that each owner or operator maintain records of reported information and other information necessary to document compliance (for example, records related to malfunctions, records that show continuous compliance with emission limits) for 5 years.

For the Initial Notification, we are proposing that each owner or operator notify us that his or her facility is subject to the HCl production NESHAP and that he or she provide specified basic information about their facility. This notification would be required to be submitted no later than 120 calendar days after the facility becomes subject to this subpart. For existing sources that are operating at this time, the Initial Notification would be due [120 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

For the Notification of Intent report, we are proposing that each owner or operator notify us in writing of the intent to conduct a performance test at least 60 days before the performance test is scheduled to begin.

For each new or existing process vent, storage tank, and transfer operation at an affected source, we are proposing to require a performance test to demonstrate compliance with proposed HCl concentration limit. This test would be conducted by the compliance date for existing sources and within 180 days of the compliance date for new or reconstructed sources. We are proposing that the NOCS report be submitted within 60 days of completion of the performance test. A certified notification of compliance that states the compliance status of the facility, along with supporting information (e.g., performance test methods and results, description of air pollution control equipment, and operating parameter

values and ranges), would be submitted as part of the NOCS.

For the Compliance Report, we are proposing that facilities subject to control requirements under the proposed rule report on continued compliance with the emission limits and operating limits semi-annually. Specifically, the compliance report must contain the following information:

- Company name and address.
- Statement certifying the truth, accuracy, and completeness of the content of the report.
- Date of report and beginning and ending dates of the reporting period.
- Information on actions taken for any startups, shutdowns, or malfunctions that were consistent with your startup, shutdown, and malfunction plan.
- If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.
- If there were no periods during which the continuous parameter monitoring system (CPMS) was out-of-control, as specified in the monitoring plan, a statement that there were no periods during which the continuous monitoring system (CMS) was out-of-control during the reporting period.

You will demonstrate initial compliance with the work practice standards for leaking equipment by demonstrating that you have a LDAR plan. Your semiannual compliance report will verify your continued use of the plan and contain information on instances where you deviated from the plan and the corrective actions taken.

Finally, you must submit an immediate startup, shutdown, and malfunction report if you have taken an action that is not consistent with the facility's startup, shutdown, and malfunction plan. This report must describe actions taken for the event and contain the information in § 63.10(d)(5)(ii).

III. Rationale for Selecting the Proposed Standards

A. How Did We Select the Source Category?

The HCl production source category and the fume silica source category were both on our initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576). The HCl production source category description in the initial listing included any facility engaged in the production of HCl. The listing document further stated that ''the category includes, but is not limited to, production of HCl via any of the following methods: production of HCl as a by-product in the manufacture of organic chemicals, direct reaction of salts and sulfuric acid (Mannheim process), reaction of a salt, sulfur dioxide, oxygen, and water (Hargreaves process), and burning chlorine in the presence of hydrogen gas.''

The fume silica production source category included any facility engaged in the production of fume silica. Fume silica is a fine white powder used as a thickener, thixotropic, or reinforcing agent in inks, resins, rubber, paints, and cosmetics. The initial fume silica source category included the production of fume silica by the combustion of silicon tetrachloride in hydrogen-oxygen furnaces. Hydrochloric acid and chlorine emissions are the primary HAP released from fume silica production facilities and result from the HCl recovery/production system. Because the largest HAP emission source at fume silica facilities is related to the HCl recovery/production system, we decided to combine fume silica sources and HCl production sources for regulation under the proposed NESHAP.

We considered whether the source category should be limited to the production of a liquid HCl product, or if the source category should also include gaseous HCl streams. The majority of HCl is produced as a gaseous by-product, rather than being directly synthesized. Some owners and operators choose to route the HCl-containing stream to an absorber to make a liquid product, and some do not. Those that do not make a liquid product may use the gaseous HCl stream by routing it to another process or by recycling it. They may also route the stream through a control device and discharge it to the atmosphere. Since, in most cases, this HCl is not intentionally being produced, and since these plants are not performing additional steps to process this HCl, we concluded that these situations do not constitute ''production'' and should not be included in the source category. Therefore, we limited the source category to those processes producing a liquid HCl product.

Consequently, the starting point for an HCl production facility is the HCl-containing gaseous stream from one of the types of processes listed above. We considered defining the source category in terms of the processes used to create the gaseous HCl stream. However, the production of the liquid HCl product in the absorption tower is relatively consistent for all HCl production, with no regard for the type of process generating the HCl gaseous stream. We concluded that the source category did not need to address the process that is the source of the HCl gaseous stream, only the unit operations that generate the liquid HCl product from that gaseous stream. In other words, we considered that the gaseous HCl stream was the feedstock to the HCl production process and not part of the process. Therefore, the proposed rule does not consider the type of process that creates the HCl gaseous stream in defining an HCl production facility.

We also wanted the proposed rule to focus on producers of ''commercial'' HCl and not on incidental producers. We considered accomplishing this by limiting the scope of the proposed rule to facilities that offer the liquid HCl product for sale. However, we rejected this approach because we recognize that this would artificially separate similar processes based on whether the product is used on-site (and, thus, not ''sold''), or is offered for sale on the commercial market. We also considered limiting the source category based on how the liquid HCl product is used. For instance, we could have defined an HCl production facility as one that produces HCl used as a feedstock for another process. However, we determined that it was not feasible to separate incidental and non-incidental uses in a non-arbitrary manner.

We then tried to identify a minimum grade (or concentration) of HCl, above which all the commercial production of HCl would fall. The most common way to define the grade of HCl appears to be percent HCl by weight. Common shipping concentrations range from 31.45 to 37 percent by weight, which we believe also probably represents common manufacturing concentrations of HCl sold in commerce. The available literature indicates that the vast majority of HCl is produced at or above the azeotropic concentration of 20 percent by weight, but any concentration of HCl can be produced depending on how the absorber is operated. The lowest documented concentration is 10 percent by weight, which is that typically produced by the Hargreaves process. However, our information in this area is limited, and there may be a market for a lower concentration product. For example, oil field service companies use HCl concentrations of 5–27 percent, and literature searches have revealed material safety data sheets for concentrations as low as 0.7 percent. There was no indication in the literature whether these lower concentrations were produced directly or by diluting higher concentration products after manufacture.

Based on the available information, we are proposing that the HCl production source category include equipment at facilities used to produce, store, and transfer for shipping liquid HCl product at a concentration of 10 percent by weight or greater. We believe that the definition would include all of the HCl producers in the U.S. and exclude incidental production of HCl. We are requesting comment on whether concentration by weight is the most appropriate method for defining the grade of HCl. We are also requesting comment on whether a concentration of 10 percent by weight or greater is an appropriate cutoff to include commercial HCl production in the U.S. and exclude incidental production.

We also considered whether some HCl production facilities that meet the definition should be excluded from the HCl production source category. First, we are aware that a facility could produce a liquid HCl product, but not have any emission points that discharge to the atmosphere. An example would be a process that recycles the vent from the absorber and that routes the liquid directly to another process. We believe that such processes should not be subject to the rule, so the proposed rule excludes them from the source category.

It is possible that the process from which the gaseous HCl stream originates will be subject to another MACT standard, and that the HCl and other HAP emissions from that stream would be subject to control requirements under that standard. We want to avoid overlapping requirements where possible, and have specifically excluded from the HCl production source category those operations that produce HCl that are also part of an affected source under one of the following subparts:

- 40 CFR part 63, subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
- 40 CFR part 63, subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- 40 CFR part 63, subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- 40 CFR part 63, subpart EEE, National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.

The Pharmaceuticals Production MACT (40 CFR 63, subpart GGG) is another source category where potential overlap could occur since chlorinated compounds are used, and the rule covers all HAP emissions, including HCl and chlorine. However, we are not aware of processes at a pharmaceutical production facility that produce a liquid HCl product of concentrations of 10 percent or greater. Therefore, the proposed rule does not exempt sources subject to subpart GGG. We would be interested in comments on any actual situations where overlap between the pharmaceutical rule and the proposed HCl rule occur.

There is also the potential for regulatory overlap when the operations that produce liquid HCl occur following the incineration of chlorinated waste gas streams, and the operations are subject to one of the following requirements:

- 40 CFR part 63.113(c), subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- 40 CFR part 264.343(b), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, subpart O, Incinerators.
- 40 CFR Part 266.107, subpart H, Burning of Hazardous Waste in Boilers and Industrial Furnaces.

For example, producers of synthetic organic chemicals are subject to the Hazardous Organic NESHAP, or HON. At a HON facility, HCl is created when chlorinated organic compounds from a HON process unit are combusted in an incinerator. The HON requires that the HCl emissions from the incinerator be reduced by 99 percent. If an owner or operator routes the incinerator outlet stream to an absorber and produces a liquid HCl product, it would be considered part of the system that achieves the required 99-percent reduction. Since the HCl production process and the HCl emissions would be covered by the HON, we would want to exclude such a process from the HCl production source category. Therefore, the proposed rule specifically excludes processes subject to § 63.113(c) of subpart G of 40 CFR part 63.

Some HON units produce HCl as a by-product (not as a result of the combustion of chlorinated organic compounds). While the HCl production process would be part of the HON affected source, the HCl emissions from these operations are not covered by the HON. Therefore, a process that produces a liquid HCl product (in concentrations equal to or greater than 10 percent by weight) in this situation would be included in the proposed HCl source category definition.

We know of three other situations that could result in regulatory overlap: MACT standards for chlorine production, primary magnesium refining, and the Miscellaneous Organic Chemical Production and Processes MACT, or the MON. However, these rules are still in the developmental stages, and we cannot determine whether there is actually an overlap. Depending on the outcome of the chlorine production, primary magnesium refining, and MON rulemaking efforts, we would consider exempting overlapping affected sources when we finalize the HCl production rule, if the other rules are also promulgated by then. Alternatively, we would consider revising the final HCl production rule after the other rules are promulgated if we determine there is a need to exempt the resulting overlapping affected sources.

B. How Did We Select the Affected Source?

For the purposes of implementing a NESHAP, an affected source is defined to mean the stationary source, or portion of a stationary source, that is regulated by a relevant standard or other requirement established under section 112 of the CAA. In other words, the affected source specifies the group of unit operations, equipment, and emission points that are subject to the proposed rule. Under each relevant standard, we must designate the ''affected source'' for the purpose of implementing that standard. We do this for each source category (or subcategory) by deciding which HAP emission sources (i.e., emission points or groupings of emission points) are most appropriate for establishing separate emission standards or work practices in the context of the CAA statutory requirements and the industry operating practices for the particular source category.

We can define the affected source as narrowly as a single item of equipment or as broadly as all equipment at the plant site that is used to produce the product that defines the source category. The affected source also defines the collection of equipment that would be evaluated to determine whether replacement of components at an existing affected source would qualify as reconstruction. If we define the affected source narrowly, it could affect whether some parts of a process unit would be subject to new source requirements and others subject to existing source requirements.

We decided to treat each collection of all connected equipment that is used to produce, store, and transfer HCl (in concentrations equal to or greater than 10 percent by weight) at a plant site as

a single affected source. While we could have created separate affected sources for the equipment associated with each type of emission source (that is process vents, storage tanks, transfer operations, etc.), we believe that the operations are inter-related to the extent that any such separation would be problematic for owners and operators and for regulators. We believe a broad affected source is more feasible because all of the emission sources for which we are proposing emission limits (process vents, storage tanks, and transfer operations) can be controlled with a single control device.

As discussed in section III.d of this preamble, we are not proposing emission limits or work practice standards for wastewater streams. However, we decided to include wastewater streams in the affected source to eliminate the confusion of how these emission streams should be considered under future site-specific MACT determinations or other rulemakings. For instance, including all of the HCl production facility emission streams in the affected source will ensure that they will be considered together under future site-specific MACT determinations.

C. How Did We Select the Form of the Standards?

Section 112(d) of the CAA requires that standards be specified as a numerical emission standard, whenever possible. However, if it is determined that ''it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants,'' section 112(h) indicates that a design, equipment, work practice, or operational standard may be specified. As with any standard, the MACT floor may be expressed several different ways. If an emission limit is not possible, the decision as to which format to use depends on availability of data, burden imposed on industry and regulatory agencies, and whether the format is verifiable and replicable.

An emission limit format is feasible for process vents, transfer operations, and storage tanks and could take the form of mass of pollutant emitted per some other normalizing factor, such as time or a measure of production. Time is almost never used because it does not take into account different production processes and production rates from one source to another. Similarly, normalizing on a measure of production does not take into account different production processes that emit pollutants at different rates.

It is also unclear what basis was used for reporting the amount of HCl produced in the available data, which is presently based on State permit applications. A common practice in this industry (although not followed by all facilities) is to report production and shipping quantities on the basis of 100 percent HCl; however, there was no indication in the permit application data whether the reported amount produced was the actual quantity or whether it was normalized to a 100-percent basis. Since this would have a profound effect on the emission factors, it was not possible to develop a normalized emission limit for using the available data.

We also considered a percent reduction format. However, this format would make it difficult to determine the reduction from a control device versus a process. For example, it might be unfair to require a single reduction level from the last control device before the emission stream is emitted to the atmosphere, depending on the way the absorption column is designed.

Based on these considerations, we selected a concentration limit format for process vents, transfer operations, and storage tanks. This format is both verifiable and repeatable. Current test methods can measure outlet concentration directly, and parameter monitoring is an acceptable means of ensuring continued proper operation and maintenance of the control device. We believe this format will minimize the burden on industry and regulatory agencies with minimal risk of allowing excess emissions.

We expect that all emission streams from HCl production processes will contain HCl, and process vents may also contain chlorine. Therefore, we selected an outlet concentration (ppmv) for both pollutants.

The format for the equipment leak standards are work practices. We selected this format because it is not feasible to prescribe or enforce emission standards. Equipment leak emissions cannot be emitted through a conveyance device, and the application of a measurement technology is not practicable due to technological or economic limitations.

D. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New Sources?

As discussed in section I.B of this preamble, for source categories/subcategories with greater than 30 sources, MACT for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which we have emissions information). Further, MACT for source categories/subcategories with fewer than 30 sources cannot be less stringent than the average emission limitation achieved by the best-performing 5 sources (for which we have or could reasonably obtain emissions information). We have determined that ''average'' means any measure of central tendency, whether it be the arithmetic mean, median, or mode, or some other measure based on the best measure decided on for determining the central tendency of a data set (59 FR 29196).

The MACT floor determination was made based on State permit data for 26 HCl production facilities for 20 plant sites: Louisiana (18 facilities), West Virginia (3 facilities), Kentucky (1 facility), New York (1 facility), Ohio (1 facility), and Texas (2 facilities). We also considered data from 5 other HCl production facilities, which were obtained from trip reports (i.e., documentation of visits to plants sites.) We used this information to develop the MACT floor analysis, presented in the following sections.

The HCl production affected source MACT floor determinations are based on the performance of add-on control devices or work practice standards. We could not consider process changes to reduce emissions, such as using different raw materials, at the floor or beyond-the-floor because our definition of the HCl production source category is limited to those processes producing a liquid HCl product (see section III.A of this preamble for more discussion). Process changes that would minimize HCl emissions after liquid product production are outside of the source category to be addressed by the proposed rule. Because fuels used in HCl production processes do not contribute to the HAP emissions from this source category, we did not consider fuel switching as an emission reduction option in the floor determination or in beyond-the-floor analyses.

1. Process Vents MACT

We have process vent control information for 25 units. Units equipped with scrubbers have the 5 highest reported control efficiencies for HCl emissions: 99.4 percent (2), >99 percent (2), and 99 percent. We selected 99.4 percent control efficiency as the median of the 3 units where actual efficiencies were reported. The scrubbers with the 5 highest control efficiencies for chlorine emissions are 99.8 percent (2), 99.4 percent, and >99 (2) percent. We selected 99.8 percent as the median of the 3 units where actual control efficiencies were reported. These

efficiencies represent the MACT floor for both new and existing sources.

We have not identified a beyond-the-floor control option for process vents, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve >99.4 percent control for HCl (>99.8 percent control for chlorine) on a consistent basis. Therefore, we are proposing that the MACT floor be used to establish MACT for new and existing sources.

As described in the format of the standard selection, we believe an outlet concentration format is needed for the proposed rule. Therefore, we have selected HCl and chlorine emission limits that correlate with the MACT level of control. We determined this value based on performance test data for eight emission points for HCl and three emission points for chlorine. We obtained or calculated an uncontrolled outlet emission stream concentration for each of these emission points. Then we applied the MACT floor percent reduction to all of the uncontrolled concentrations.

The concentrations associated with the 99.4 percent control HCl MACT for process vents ranged from 0.03 ppmv to 12.3 ppmv. We selected the highest value in this range, 12 ppmv, as representing the concentration that every facility with a control device capable of meeting the MACT floor percent reduction could meet. Similarly, the concentrations associated with the 99.8 percent chlorine MACT ranged from 1.5 ppmv to 19.3 ppmv. We selected 20 ppmv as the concentration that every facility with a control device capable of meeting the MACT floor percent reduction could meet.

2. Storage Tanks MACT

We have information on control efficiencies for 18 HCl storage tank scrubbers. Of these, the 5 highest control efficiencies are 99.9 percent, 99.85 percent, >99 percent, 99 percent, and 98 percent. We selected 99.4 percent as the median of the 4 units where actual efficiencies were reported.

Requiring a 99.9 percent control efficiency as a beyond-the-floor option is theoretically possible, based on the data described above. However, such a requirement could result in the need for a dedicated control device for storage tank emissions, in the event the process vent scrubber could not be modified to achieve the higher control efficiency. This change would achieve only a minor incremental emission reduction (less than one ton per year, industry wide) for existing sources and would result in an incremental cost of approximately $156,000 per ton of pollutant reduced. Therefore, we do not believe this is a reasonable beyond-the-floor alternative.

We believe the MACT floor for existing sources is representative of new sources, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve a 99.9 percent or greater control on a consistent basis. Therefore, we are proposing a MACT level of control that is the same for new and existing sources, based on the MACT floor analysis. This would allow storage tanks to be vented to the same scrubbers or other controls used for process vents, thus, conserving energy and reducing the amount of wastewater generated. In addition, monitoring, recordkeeping, and reporting burdens would be minimized. These sources would be required to meet the 12 ppmv concentration limit for HCl.

3. Transfer Operation MACT

We only have information on transfer operation controls from four units. Of these, 2 report >99 percent control, 1 reports controls but no associated efficiency, and 1 unit is uncontrolled. We selected >99 percent as the floor value. We have not identified a beyond-the-floor control option for transfer operations, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve a higher level of control on a consistent basis. Therefore, we are proposing that the MACT floor be used to establish MACT for new and existing sources. We propose that these sources meet the 12 ppmv concentration limit as well. This would allow transfer operations to be vented to the same scrubbers or other controls used for process vents and/or storage tanks, conserving energy and reducing the amount of wastewater generated. In addition, monitoring, recordkeeping, and reporting burdens would be minimized.

4. Leaking Equipment MACT

Because of the corrosive nature of HCl, equipment leaks are readily apparent, and such leaks have a severe, detrimental effect on equipment, piping, and structural components of the facility. Hydrochloric acid production facilities, therefore, have an incentive to identify and quickly repair equipment leaks because of these effects. Identification of equipment leaks is typically done simply by visual observation, as the corrosive nature of HCl make such leaks readily apparent.

Details that are typically included in EPA equipment leak regulations (i.e., frequency of inspections, time interval between when a leak is detected and when the equipment must be repaired, etc.) were not available for the programs at HCl production facilities. Therefore, we generally determined that the MACT floor for leaking equipment emissions is a plan to detect and repair leaking equipment. We considered a formal LDAR program, such as the HON provisions (40 CFR part 63, subpart H), as a beyond-the-floor option. However, the HON equipment program, and all similar programs (such as 40 CFR part 60, subpart VV) are limited to control of organic HAP or volatile organic compound emissions. The EPA Method 21 of 40 CFR part 60, appendix A, is specified as the method to detect the leaks in those rules. Method 21 is specific to organic pollutants. There is no comparable EPA reference method to detect HCl or chlorine emissions from leaking equipment. Therefore, we concluded that a formal LDAR program based on the measurement of HCl or chlorine leaks is not a viable regulatory alternative. Therefore, we selected the MACT floor level for the proposed rule. As noted above, we did not have sufficient information to draft specific LDAR procedures. Therefore, the proposed rule contains the requirement that each HCl production facility establish a site-specific program to identify and repair equipment leaks.

5. Wastewater Treatment Operations MACT

No add-on controls to reduce HCl emissions from wastewater were reported in the available data. In addition, no process modifications or other pollution prevention type measures that reduce HCl emissions from wastewater were identified. Therefore, we determined that the new and existing source MACT floors for wastewater were no emission reduction. Since no add-on controls were reported to be in use at existing HCl production facilities, we determined that requiring add-on control was not a viable option more stringent than the floor. We also concluded that a beyond-the-floor option based on process modifications was not feasible, based on the following reasons. First, there are numerous types of processes that produce an HCl by-product, which results in a variety of wastewater scenarios. Therefore, we do not believe that any process or raw material change could be expected to be universally applied to wastewater streams at all types of HCl production

facilities. Further, wastewater treatment is highly sensitive to pH, and HCl has a significant impact on pH. For example, an activated sludge treatment system normally consists of an equalization basin, a settling tank (primary clarifier), aeration basin, a secondary clarifier, and a sludge recycle line. Equalization of pH and other parameters such as flow, temperature, and pollutant loads is necessary to perform consistent, adequate treatment. We believe that the potential negative impacts of upsetting existing wastewater systems is not worthwhile, especially given the very small level of HCl emissions from wastewater (less than 1 percent of total HCl emissions are from wastewater operations). Therefore, the proposed rule does not contain any requirements for wastewater.

E. How Did We Select the Testing, and Initial and Continuous Compliance Requirements?

We selected the proposed testing and initial and continuous compliance requirements based on requirements specified in the NESHAP General Provisions (40 CFR part 63, subpart A). These requirements were adopted for HCl production facilities to be consistent with other part 63 NESHAP. These requirements would ensure that we obtain or have access to information sufficient to determine whether an affected source is complying with the standards specified in the proposed rule.

The proposed NESHAP would require a compliance test to determine initial compliance with the outlet concentration limit proposed for process vents, storage tanks, and transfer operations by using Method 26A of 40 CFR part 60, appendix A. The General Provisions (at § 63.7(e)(3)) specify that each test consist of at least three separate test runs. The proposed rule adopts this requirement. Further, the proposed rule requires that each test run be at least 1 hour long.

In order to assure continuous compliance with the emissions limit for process vents, storage tanks, and transfer operations, we are proposing to require the use of CPMS to monitor operating parameters (e.g., pH of the scrubber liquid) to ensure proper operation of the control device. You would demonstrate continuous compliance by maintaining the monitored parameters within the operating limits which would be established using data collected during the initial performance test. We chose the parameters to be measured to demonstrate continuous compliance because they are the best indicators of continued performance of proper control device operation.

We considered requiring the use of continuous HCl and chlorine emission monitoring systems, but rejected the option. While there are readily available HCl and chlorine continuous emissions monitoring systems, the cost of these compared to the cost of the monitoring control device parameters is unreasonable. The annualized cost to install and operate a Fourier Transform Infrared Spectroscopy system to monitor both HCl and chlorine is approximately $206,000, with approximately $77,000 in annualized costs. In contrast, the capital costs for parametric monitoring devices and a data recording device would be less than $5,000 per control device with an annualized cost of less than $900.

F. How Did We Select the Notification, Recordkeeping, and Reporting Requirements?

We selected the proposed notification, recordkeeping, and reporting requirements based on requirements specified in the NESHAP General Provisions (40 CFR part 63, subpart A). As with the proposed initial and continuous compliance requirements, these requirements were adapted for HCl production facilities to be consistent with other part 63 national emission standards.

IV. Summary of Environmental, Energy, Cost, and Economic Impacts

A. What Are the Air Quality Impacts?

Nationwide baseline emissions are approximately 2,260 Mg/yr (2,490 tpy) of HCl and 880 Mg/yr (970 tpy) of chlorine. The total annual emissions reductions resulting from the proposed rule is 1,090 Mg/yr (1,200 tpy) of HCl and 540 Mg/yr (590 tpy) of chlorine.

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

We do not expect that there will be any significant adverse non-air health, environmental or energy impacts associated with the proposed standards for HCl production plants. The proposed rule will result in the generation of additional wastewater from scrubbers. We have calculated this amount to be approximately 103,000 gallons per process vent scrubber, resulting in an estimated treatment cost of $390 per scrubber, or $25,000 for the 64 existing facilities.

C. What Are the Cost and Economic Impacts?

The total estimated capital cost of the proposed rule for HCl production is $9,981.000. The total estimated annual cost of the proposed rule is $5,975,000, which includes the annualized costs of control and monitoring equipment, other operation and maintenance, and the annual labor to comply with the reporting and recordkeeping requirements of the proposed rule once the sources are in compliance.

The economic impact analysis, which is a comparison of compliance costs for the affected parent firms with their revenues, shows that the estimated costs associated with the MACT floor option are no more than 1.0 percent of the revenues for any of the 32 affected firms. It is likely that the expected reduction in affected HCl output is no more than 0.01 percent or less from that industry. It should be noted that these results are based on the application of costs from a subset of the affected facilities to the remaining facilities. This is necessary due to incomplete facility-level cost data. Therefore, it is likely that there is no adverse impact expected to HCl producers as a result of implementation of the proposed rule.

V. Solicitation of Comments and Public Participation

We seek full public participation in arriving at final decisions and encourage comments on all aspects of this proposed rule from all interested parties. You will need to submit full supporting data and detailed analysis with your comments to allow us to make the best use of them.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we 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 obligation 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 proposed rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review.

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.''

This proposed rule does not have federalism implications. It 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 proposed rule applies to affected sources in the HCl production industry, not to States or local governments. State law will not be preempted, nor any mandates be imposed on States or local governments. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, the EPA specifically solicits comment on this proposed rule from State and local officials.

C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (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 we have 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 proposed rule is not subject to Executive Order 13045 because it is based solely on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Additionally, this proposed rule is not ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

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 the UMRA, we must generally 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 the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us 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 us 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 we establish 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this proposed rule does 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. The total annual cost of this proposed rule for any 1 year has been estimated at $6 million per year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

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 generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as a small business according to Small Business Administration (SBA) size standards by the North American Industry Classification System (NAICS) category of the owning parent entity. The small business size standard for the affected industries (NAICS 325181, Alkalies and Chlorine Manufacturing, and NAICS 325188, All Other Basic Inorganic Chemical Manufacturing) is a maximum of 1,000 employees for an entity.

After considering the economic impact of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. In accordance with the RFA, as amended by the SBREFA, 5 U.S.C. 601, *et seq.*, we conducted an assessment of the proposed rule on small businesses within the industries affected by the proposed rule. Based on SBA size definitions for the affected industries and reported sales and employment data, we identified 4 affected small businesses out of 32 affected parent businesses (or 13 percent of the total number). In order to estimate impacts to affected small businesses, we conducted a screening analysis that consists of estimates of the annual compliance costs these businesses are expected to occur as compared to their revenues. Since the data are such that costs can only be estimated for a subset of the affected facilities, the available data were used to determine the costs to the facilities outside of this subset. The results of this screening analysis show that all but one of the small businesses are expected to have annual compliance costs of 1 percent or less. Therefore, this analysis allows us to certify that there will not be a significant impact on a substantial number of small entities from the implementation of this proposed rule. For more information, consult the docket for this project.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR Number 2032.01), and you may obtain a copy from Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

According to the ICR, the total 3-year monitoring, reporting, and recordkeeping burden for this collection is 148,032 labor hours, and the annual average burden is 49,675 labor hours. The labor cost over the 3-year period is $6,331,734, or $2,110,578 per year. The annualized capital cost for monitoring equipment is $25,632. Annual operation and maintenance costs are $1,256,063 over 3 years, averaging $418,688 per year. This estimate includes a one-time plan for demonstrating compliance, annual compliance certificate reports, notifications, and recordkeeping.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after September 18, 2001, a comment to OMB is best assured of having its full effect if OMB receives it by October 18, 2001. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113; 15 U.S.C. 272 note) directs EPA 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., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This proposed rule involves technical standards. The EPA proposes in this rule to use EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 4, and 26A of 40 CFR part 60, appendix A. Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No

applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, and 2G. The search and review results have been documented and are placed in the docket (A–99–41) for this proposed rule.

This search for emission measurement procedures identified eight voluntary consensus standards potentially applicable to this proposed rule. The EPA determined that six of these eight standards were impractical alternatives to EPA test methods for the purposes of this proposed rule. Therefore, the EPA does not propose to adopt these standards today. The reasons for this determination for the six methods are discussed below.

The standard ISO 10780:1994, ''Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts,'' is impractical as an alternative to EPA Method 2 in this proposed rule. This standard, ISO 10780:1994, recommends the use of L-shaped pitots, which historically have not been recommended by EPA because the S-type design has large openings which are less likely to plug up with dust.

The standard ASTM D3464–96, ''Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer,'' is impractical as an alternative to EPA Method 2 for the purposes of this proposed rule primarily because applicability specifications are not clearly defined, e.g., range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The European standard EN 1911–1,2,3 (1998), ''Stationary Source Emissions—Manual Method of Determination of HCl—Part 1: Sampling of Gases Ratified European Text—Part 2: Gaseous Compounds Absorption Ratified European Text—Part 3: Adsorption Solutions Analysis and Calculation Ratified European Text,'' is impractical as an alternative to EPA Method 26A. Part 3 of this standard cannot be considered equivalent to EPA Method 26 or 26A because the sample absorbing solution (water) would be expected to capture both HCl and chlorine gas, if present, without the ability to distinguish between the two. The EPA Methods 26 and 26A use an acidified absorbing solution to first separate HCl and chlorine gas so that they can be selectively absorbed, analyzed, and reported separately. In addition, in EN 1911 the absorption efficiency for chlorine gas would be expected to vary as the pH of the water changed during sampling.

Three of the six voluntary consensus standards are impractical alternatives to EPA test methods for the purposes of this proposed rule because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM D3154–91, ''Standard Method for Average Velocity in a Duct (Pitot Tube Method),'' for EPA Methods 1, 2, 2C, and 4; ASTM 3796–90 (Reapproved 1996), ''Standard Practice for Calibration of Type S Pitot Tubes,'' for EPA Method 2; and ASTM E337–84 (Reapproved 1996), ''Standard Test Method for Measuring Humidity with a Psychrometer (the Measurement of Wet- and Dry-Bulb Temperatures),'' for EPA Method 4.

The following two of the eight voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this proposed rule because they are under development by a voluntary consensus body: ASME/BSR MFC 12M, ''Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters,'' for EPA Method 2; and ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 1 (and possibly 2). While we are not proposing to include these two voluntary consensus standards in today's proposal, the EPA will consider the standards when final.

The EPA takes comment on the compliance demonstration requirements proposed in this proposed rule and specifically invites the public to identify potentially-applicable voluntary consensus standards. Commenters should also explain why this proposed rule should adopt these voluntary consensus standards in lieu of or in addition to EPA's test methods. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, appendix A, was used).

Section 63.9020 to subpart NNNNN lists the EPA testing methods included in the proposed rule. Under § 63.8 of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

I. Executive Order 13211, Energy Effects

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Recordkeeping and reporting requirements.

Dated: September 7, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the 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.*

2. Part 63 is amended by adding subpart NNNNN to read as follows:

Subpart NNNNN—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

What This Subpart Covers

Emission Limitations and Work Practice Standards

General Compliance Requirements

Testing and Initial Compliance Requirements

Continuous Compliance Requirements

What This Subpart Covers

§ 63.8980 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) and work practice standards for HAP emitted from hydrochloric acid (HCl) production. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.8985 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an HCl production facility that is located at or is part of a major source of HAP.

(1) An HCl production facility is the collection of equipment used to produce, store, and transfer for shipping liquid HCl product at a concentration of 10 percent by weight or greater.

(2) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) You are not subject to this subpart if the operations that produce liquid HCl are also subject to NESHAP under one of the subparts listed in paragraphs (b)(1) through (4) of this section.

(1) 40 CFR part 63, subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.

(2) 40 CFR part 63, subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(3) 40 CFR part 63, subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(4) 40 CFR part 63, subpart EEE, National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.

(c) You are not subject to this subpart if the operations that produce liquid HCl occur following the incineration of chlorinated waste gas streams and the operations are subject to the one of the requirements listed in paragraphs (c)(1) through (3) of this section.

(1) 40 CFR part 63.113(c), subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(2) 40 CFR part 264.343(b), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (subpart O, Incinerators).

(3) 40 CFR Part 266.107, subpart H, Burning of Hazardous Waste in Boilers and Industrial Furnaces.

(d) You are not subject to this subpart if all of the HCl and chlorine (Cl_2) vent streams from the equipment (including absorbers, storage tanks and transfer operations) at the HCl production facility are recycled or routed to another process prior to being discharged to the atmosphere.

§ 63.8990 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at an HCl production facility.

(b) The affected source is the HCl production facility, which contains the collection of emission streams listed in paragraphs (b)(1) through (5) of this section.

(1) Each emission stream from an HCl process vent.

(2) Each emission stream from an HCl storage tank.

(3) Each emission stream from an HCl transfer operation.

(4) Leaks from equipment in HCl/Cl_2 service.

(5) Each emission stream from HCl wastewater treatment operations. There are no emission limitations or other requirements in this subpart that apply to this equipment.

(c) An affected source is a new affected source if you commenced construction of the affected source after September 18, 2001 and you met the applicability criteria of § 63.8985 at the time you commenced construction.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.8995 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) or (2) of this section.

(1) If you start up your affected source before [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must comply with the emission limitations and work practice standards in this subpart no later than [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(2) If you start up your affected source after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must comply with the emission limitations and work practice standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations and work practice standards no later than 3 years after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, the provisions in paragraphs (c)(1) and (2) of this section apply.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the source must be in compliance with this subpart no later than the date 3 years after the area source becomes a major source.

(d) You must meet the notification requirements in § 63.9045 according to the schedule in § 63.9045 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations and Work Practice Standards

§ 63.9000 What emission limitations and work practice standards must I meet?

(a) You must meet each emission limit and work practice standard in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

General Compliance Requirements

§ 63.9005 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) During the period between the compliance date specified for your affected source in § 63.8995 and the date upon which continuous compliance monitoring systems have been installed and validated and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(d) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

(e) For each monitoring system required in this section, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements in paragraphs (f)(1) through (3) of this section.

(1) Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system.

(3) Performance evaluation procedures and acceptance criteria (e.g., calibrations).

(f) In your site-specific monitoring plan, you must also address the ongoing procedures specified in paragraphs (g)(1) through (3) of this section.

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.9030.

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d).

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c) and (e)(1) and (2)(i).

Testing and Initial Compliance Requirements

§ 63.9010 By what date must I conduct performance tests?

(a) If you have a new or reconstructed affected source, you must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.8995(a) and according to the provisions in § 63.7(a)(2).

(b) If you have an existing affected source, you must conduct performance tests no later than the compliance date that is specified for your existing affected source in § 63.8995(b) and according to the provisions in § 63.7(a)(2).

(c) If you commenced construction or reconstruction between September 18, 2001 and [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must demonstrate initial compliance with either the proposed emission limitation or the promulgated emission limitation no later than 180 calendar days after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**] or within 180 calendar days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

§ 63.9015 When must I conduct subsequent performance tests?

(a) You must conduct all applicable performance tests according to the procedures in § 63.9020 on an annual basis. The first subsequent performance tests must be completed within 12 months of the initial performance test, but no earlier than 10 months after the initial performance test and every 12 months, thereafter.

(b) You must report the results of annual performance tests within 60 days after the completion of the test. This report should also verify that the operating limits for your affected source have not changed or provide documentation of revised operating parameters established as specified in Table 2 to this subpart. The reports for all subsequent performance tests should include all applicable information required in § 63.9050.

§ 63.9020 What performance tests and other procedures must I use?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you.

(b) You must conduct each performance test according the site-specific test plan required by § 63.7(c)(2).

(c) You must conduct each performance test under representative conditions according to the requirements in § 63.7(e)(1) and under the specific conditions that this subpart specifies in Table 3.

(d) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(e) You must conduct at least three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(f) You must establish all applicable operating permit ranges that correspond to compliance with the emission limit as described in Table 3 to this subpart.

§ 63.9025 What are my monitoring installation, operation, and maintenance requirements?

(a) For each operating parameter that you are required by § 63.9020(f) to monitor, you must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the requirements in § 63.9005(e) and (f) and paragraphs (a)(1) through (6) of this section.

(1) You must operate your CPMS at all times the process is operating.

(2) You must collect data from at least four equally spaced periods each hour.

(3) For at least 75 percent of the hours in a 24-hour period, you must have valid data (as defined in your site-specific monitoring plan) for at least 4 equally spaced periods each hour.

(4) For each hour that you have valid data from at least four equally spaced periods, you must calculate the hourly average value using all valid data.

(5) You must calculate the daily average using all of the hourly averages calculated according to paragraph (a)(3) of this section for the 24-hour period.

(6) You must record the results for each inspection, calibration, and validation check as specified in your site-specific monitoring plan.

(b) For liquid flow monitoring devices such as various types of flow meters, including magnetic, mass, thermal, fluidic oscillating, vortex formation, turbine, and positive displacement, you must meet the requirements in paragraphs (a) and (b)(1) through (5) of this section.

(1) You must locate the flow sensor and other necessary equipment in or as close to a position that provides a representative flow.

(2) You must use a flow sensor with a minimum measurement uncertainty of two percent of the flow rate.

(3) You must conduct at least semi-annually a flow sensor calibration check.

(4) You must perform at least monthly inspections of all components for integrity, of all electrical connections for continuity, and of all mechanical connections for leakage.

(5) You must record the results of the inspection and flow sensor calibration in a log.

(c) For pH monitoring devices, you must meet the requirements in paragraphs (a) and (c)(1) through (5) of this section.

(1) You must locate the pH sensor so that a representative pH is provided.

(2) You must ensure the sample is properly mixed and representative of the fluid to be measured.

(3) You must check the pH meter's calibration on at least two points every 8 hours of process operation.

(4) You must perform at least monthly inspections of all components for integrity and of all electrical connections for continuity.

(5) You must record the results of the calibration and inspection in a log.

(d) For any other control device, ensure that the CPMS is operated according to a monitoring plan submitted to the Administrator as required by § 63.8(f). The monitoring plan must meet the requirements in paragraphs (a) and (d)(1) through (3) of this section. Conduct monitoring in accordance with the plan submitted to the Administrator unless comments received from the Administrator require an alternate monitoring scheme.

(1) Identify the operating parameter to be monitored to ensure that the control or capture efficiency measured during the initial compliance test is maintained.

(2) Discuss why this parameter is appropriate for demonstrating ongoing compliance.

(3) Identify the specific monitoring procedures.

§ 63.9030 How do I demonstrate initial compliance with the emission limitations and work practice standards?

(a) You must demonstrate initial compliance with each emission limit and work practice standard that applies to you according to Table 4 to this subpart.

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.9020 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.9045(e).

Continuous Compliance Requirements

§ 63.9035 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) If you use a caustic scrubber or a water scrubber/absorber to meet the emission limits in Table 1 to this subpart, you must keep the records specified in paragraphs (b)(1) and (2) of this section to support your compliance demonstration.

(1) Records of daily average scrubber inlet liquid flow rate.

(2) Records of the daily average scrubber effluent pH.

(c) If you use any other control device to meet the emission limits in Table 1 to this subpart, you must keep records of the operating parameter values identified in your monitoring plan in § 63.9025(e) to support your compliance demonstration.

(d) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, or malfunction when the affected source is operating. A monitoring malfunction includes, but is not limited to, any sudden, infrequent, not reasonable failure of the monitoring equipment to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(e) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.9040 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

(a) You must demonstrate continuous compliance with each emission limit and work practice standard in Table 1 to this subpart that applies to you according to Table 4 to this subpart.

(b) You must demonstrate continuous compliance with each operating limit in Table 2 of this subpart that applies to you according to Tables 4 and 5 to this subpart.

(c) You must report each instance in which you did not meet an emission limit, work practice standard or operating limit in Table 1 or 2, respectively, to this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.9050.

(d) During periods of startup, shutdown, or malfunction, you must operate in accordance with the startup, shutdown, and malfunction plan.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.9045 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f)(4) and (6), and 63.9(b) through (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you startup your affected source before [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must submit an Initial Notification not later than 120 calendar days after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(c) As specified in § 63.9(b)(3), if you startup your new or reconstructed affected source on or after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.

(d) You must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as required in § 63.7(b)(1).

(e) When you conduct a performance test as specified in Table 3 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(f) You must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(g) The Notification of Compliance Status must also include the information in paragraphs (g)(1) through (3) of this section that applies to you.

(1) Each operating parameter value averaged over the full period of the performance test (for example, average pH).

(2) Each operating parameter range within which HAP emissions are reduced to the level corresponding to meeting the applicable emission limits in Table 1 to this subpart.

(3) A copy of the equipment leak detection and repair (LDAR) plan (unless it has already been submitted).

§ 63.9050 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8995 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.8995.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.8995.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4).

(c) The compliance report must contain the following information in paragraphs (c)(1) through (7) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which the CPMS was out-of-control in accordance with the monitoring plan, a statement that there were no periods during which the CPMS was out-of-control during the reporting period.

(7) Verification that you continue to use the equipment LDAR plan and information that explains any periods when the procedures in the plan were not followed and the corrective actions taken.

(d) For each deviation from an emission limitation occurring at an affected source where you are using a CPMS to comply with the emission limitation in this subpart, you must include the information in paragraphs (c)(1) through (6) of this section and the following information in paragraphs (d)(1) through (9) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

(2) The date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CPMS downtime during the reporting period, and the total duration of CPMS downtime as a percent of the total source operating time during that reporting period.

(8) A brief description of the process units.

(9) A description of any changes in CPMS, processes, or controls since the last reporting period.

(e) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) For each startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan you must submit an immediate startup, shutdown and malfunction report. Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (f)(1) and (2) of this section.

(1) An initial report containing a description of the actions taken for the

event must be submitted by fax or telephone within 2 working days after starting actions inconsistent with the plan.

(2) A follow-up report containing the information listed in § 63.10(d)(5)(ii) must be submitted within 7 working days after the end of the event unless you have made alternative reporting arrangements with the permitting authority.

§ 63.9055 What records must I keep?

(a) You must keep a copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, as required in § 63.10(b)(2)(xiv).

(b) You must also keep the following records specified in paragraphs (b)(1) through (5) of this section.

(1) The records in § 63.6(e)(3)(iii)–(v) related to startup, shutdown, and malfunction.

(2) Records of performance tests as required in § 63.10(b)(2)(viii).

(3) Records of operating parameter values that are consistent with your monitoring plan.

(4) Records of the date and time that each deviation started and stopped and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) Copy of the equipment LDAR plan.

§ 63.9060 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious inspection and review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records off site for the remaining 3 years.

Other Requirements and Information

§ 63.9065 What parts of the General Provisions apply to me?

(a) Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

(b) [Reserved]

§ 63.9070 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, as well as U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities in paragraphs (c)(1) through (4) that cannot be delegated to State, local, or tribal agencies are as follows.

(1) Approval of alternatives to requirements in §§ 63.8980, 63.8985, 63.8990, 63.8995, and 63.9000.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.9075 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Caustic scrubber means any add-on device that mixes an aqueous stream or slurry containing caustic solution (e.g., lime, limestone) with the exhaust gases from an affected HCl production facility to control emissions of and/or to absorb and neutralize HCl.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation;

(2) fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) fails to meet any emission limitation in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit or operating limit.

In HCl/Cl_2 service means a piece of equipment (pump, compressor, valve, connector, etc.) at an HCl production facility that contains HCl and/or chlorine.

Hydrochloric acid process vent means a process vent through which an emission stream containing HCl is vented to the atmosphere. The emission stream may or may not be treated by an HCl absorption column, chlorinated hydrocarbon stripping column, or HCl desorption column before venting to the atmosphere.

Responsible official means responsible official as defined in 40 CFR 70.2 of this chapter.

Transfer operation means the loading, into a tank truck or railcar, of liquid HCl from a transfer (or loading) rack (as defined in this section).

Transfer (or loading) rack means the collection of loading arms and loading hoses, at a single loading rack, that are used to fill tank trucks and/or railcars with liquid HCl. Transfer rack includes the associated pumps, meters, shutoff valves, relief valves, and other piping and valves.

Vent means to discharge emissions to the atmosphere from either an HCl process vent, storage tank, or transfer operation.

Water scrubber/absorber means any add-on device that mixes an aqueous stream (not containing caustic solution) with the exhaust gases from an affected HCl production facility to control emissions of and/or to absorb and neutralize HCl.

Tables

TABLE 1 TO SUBPART NNNNN.—EMISSION LIMITS AND WORK PRACTICE STANDARDS

[As stated in § 63.9000(a), you must comply with the following emission limits and work practice standards]

For each * * *	You must meet the following emission limit and work practice standard
1. Emission stream from an HCl process vent	outlet concentration shall not exceed 12 ppm by volume of HCl or 20 ppm by volume of Cl_2.
2. Emission stream from an HCl storage tank	outlet concentration shall not exceed 12 ppm by volume of HCl.
3. Emission stream from an HCl transfer operation	outlet concentration shall not exceed 12 ppm by volume of HCl.
4. Emission stream from leaking equipment in HCl/Cl_2 service	a. prepare and operate at all times according to an equipment LDAR plan that describes in detail the measures that will be put in place to detect leaks and repair them in a timely fashion, and b. you may use existing manuals that describe the measures in place to control leaking equipment emissions required as part of other federally enforceable requirements.

TABLE 2 TO SUBPART NNNNN.—OPERATING LIMITS

[As stated in § 63.9000(b), you must comply with the following operating limits for each affected source vented to a control device]

For each * * *	You must * * *
1. Caustic scrubber or water scrubber/absorber	a. maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and b. maintain the daily average scrubber effluent pH within the operating range value established during the performance test.
2. Other type of control device to which HCl emissions are ducted	maintain your operating parameter(s) within the ranges established during the performance test and according to your monitoring plan.

TABLE 3 TO SUBPART NNNNN.—PERFORMANCE TEST REQUIREMENTS FOR HCL PRODUCTION AFFECTED SOURCES

[As stated in § 63.9020, you must comply with the following requirements for performance tests for HCl production for each affected source]

For each affected source, you must * * *	Using * * *	According to the following requirements * * *
1. Select sampling port location(s) and the number of traverse points.	Method 1 or 1A in appendix A to 40 CFR part 60 of this chapter.	sampling sites must be located at the outlet of the scrubber and prior to any releases to the atmosphere.
2. Determine velocity and volumetric flow rate	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to 40 CFR part 60 of this chapter.	
3. Determine gas molecular weight	not applicable	assume a molecular weight of 29 (after moisture correction) for calculation purposes.
4. Measure moisture content of the stack gas	Method 4 in appendix A to 40 CFR part 60 of this chapter.	
5. Measure HCl concentration from each affected source and Cl_2 concentration from process vent affected sources.	Method 26A in Appendix A to 40 CFR part 60 of this chapter.	a. measure total emissions using Method 26A, and. b. collect scrubber liquid flow rate and scrubber effluent pH every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate and scrubber effluent pH over the period of the performance test by computing the average of all of the 15-minute readings.
6. Establish operating parameter limits with which you will demonstrate continuous compliance with the emission limit in Table 1 to this subpart, if you use any other control device than a caustic scrubber or a water scrubber/absorber.	EPA-approved methods and data from the continuous parameter monitoring system.	conduct the performance tests and establish operating parameter limits according to site-specific test plan submitted according to § 63.7(c)(2)(i).

TABLE 4 TO SUBPART NNNNN.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS

[As stated in § 63.9030, you must comply with the following requirements to demonstrate initial compliance with the applicable emission limits for each affected source vented to a control device and each work practice standard]

For each * * *	For the following emission limit or work practice standard * * *	You have demonstrated initial following compliance if * * *
1. Affected source using a austic scrubber or water scrubber/absorber.	in Table 1 to this subpart	the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart.
2. Affected source using any other type of control device.	in Table 1 to this subpart	the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart.
3. Leaking equipment affected source	in Table 1 to this subpart	submit a copy of the equipment LDAR plan to the designated permitting authority on or before the applicable compliance date specified in § 63.8995.

TABLE 5 TO SUBPART NNNNN.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS

[As stated in § 63.9040, you must comply with the following requirements to demonstrate continuous compliance with the applicable emission limitations for each affected source vented to a control device and each work practice standard]

For each...	For the following emission limitation and work practice standard...	You must demonstrate continuous compliance by...
1. Affected source using a caustic scrubber or water scrubber/absorber.	in Tables 1 and 2 to this subpart	a. demonstrating with the annual performance test that the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart, and b. collecting the scrubber inlet liquid flow rate and effluent pH monitoring data according to § 63.9025, consistent with your monitoring plan, and c. reducing the data to 1-hour and daily block averages according to the requirements in § 63.9025, and d. maintaining the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and e. maintaining the daily average scrubber effluent pH within the operating range established during the performance test.
2. Affected source using any other control device.	in Tables 1 and 2 to this supbart	a. demonstrating with the annual performance test that the average HCl and Cl_2 concentration (if applicable), measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart, and b. collecting the scrubber inlet liquid flow rate and effluent pH monitoring data according to § 63.9025, consistent with your monitoring plan, and c. reducing the data to 1-hour and daily block averages according to the requirements in § 63.9025, and d. maintaining the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and e. maintaining the daily average scrubber effluent pH within the operating range established during the performance test.

TABLE 5 TO SUBPART NNNNN.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS—Continued

[As stated in § 63.9040, you must comply with the following requirements to demonstrate continuous compliance with the applicable emission limitations for each affected source vented to a control device and each work practice standard]

For each...	For the following emission limitation and work practice standard...	You must demonstrate continuous compliance by...
3. Leaking equipment affected source	in Table 1 to this subpart	a. verifying that you continue to use a LDAR plan, and b. reporting any instances where you deviated from the plan and the corrective actions taken.

TABLE 6 TO SUBPART NNNNN.—REQUIREMENTS FOR REPORTS

[As stated in § 63.9050(a), you must submit a compliance report that includes the information in § 63.9050(c) through (e) as well as the information in the following table. You must also submit startup, shutdown, and malfunction (SSM) reports according to the requirements in § 63.9050(f) and the following]

If * * *	Then you must submit a report or statement that:
1. There are no deviations from any emission limitations that apply to you.	there were no deviations from the emission limitations during the reporting period.
2. There were no periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	there were no periods during which the CPMS were out-of-control during the reporting period.
3. There was a deviation from any emission limitation during the reporting period.	contains the information in § 63.9050(d).
4. There were periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	contains the information in § 63.9050(d).
5. There was a startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunctions plan.	contains the information in § 63.9050(f).
6. There were periods when the procedures in the LDAR the plan were not followed.	contains the information in § 63.9050(c)(7).

TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN

[As stated in § 63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.1	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes.	
§ 63.2	Definitions	Yes	additional definitions are found in § 63.9075.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§ 63.5	Construction/reconstruction applicability; applications; approvals.	Yes.	
§ 63.6(a)	Compliance with standards and maintenance requirements—applicability.	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new or reconstructed sources.	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(b)(5)	Notification if commenced construction or reconstruction after proposal.	Yes.	
§ 63.6(b)(6)	[Reserved]	Yes.	
§ 63.6(b)(7)	Compliance dates for new or reconstructed area sources that become major.	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(c)(1)–(2)	Compliance dates for existing sources ...	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(c)(3)–(4)	[Reserved]	Yes.	
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	§ 63.8995 specifies compliance dates.
§ 63.6(d)	[Reserved]	Yes.	
§ 63.6(e)(1)–(2)	Operation and maintenance requirements.	Yes.	
§ 63.6(e)(3)	Startup, shutdown, and malfunction plans.	Yes.	
§ 63.6(f)(1)	Compliance except during SSM	Yes.	
§ 63.6(f)(2)–(3)	Methods for determining compliance	Yes.	

TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

[As stated in § 63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.6(g)	Use of an alternative nonopacity emission standard.	Yes.	
§ 63.6(h)	Compliance with opacity/visible emission standards.	No	subpart NNNNN does not specify opacity or visible emission standards.
§ 63.6(i)	Extension of compliance with emission standards.	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	except for existing affected sources as specified in § 63.9010(b).
§ 63.7(a)(3)	Administrator's CAA section 114 authority to require a performance test.	Yes.	
§ 63.7(b)	Notification of performance test and rescheduling.	Yes.	
§ 63.7(c)	Quality assurance program and site-specific test plans.	Yes.	
§ 63.7(d)	Performance testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests.	Yes.	
§ 63.7(f)	Use of an alternative test method	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of performance tests	Yes.	
§ 63.8(a)(1)–(3)	Applicability of monitoring requirements	Yes	additional monitoring requirements are found in § 63.9005(e) and (f) and 63.9035.
§ 63.8(a)(4)	Monitoring with flares	No	subpart NNNNN does not refer directly or indirectly to § 63.11.
§ 63.8(b)	Conduct of monitoring and procedures when there are multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)–(3)	Continuous monitoring system (CPMS) operation and maintenance.	Yes	applies as modified by § 63.9005(e) and (f).
§ 63.8(c)(4)	Continuous monitoring system requirements during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	Yes	applies as modified by § 63.9005(f).
§ 63.8(c)(5)	Continuous opacity monitoring system (COMS) minimum procedures.	No	subpart NNNNN does not have opacity or visible emission standards.
§ 63.8(c)(6)	Zero and high level calibration checks	Yes	applies as modified by § 63.9005(e).
§ 63.8(c)(7)–(8)	Out-of-control periods, including reporting.	Yes.	
§ 63.8(d)–(e)	Quality control program and CPMS performance evaluation.	No	applies as modified by § 63.9005(e) and (f).
§ 63.8(f)(1)–(5)	Use of an alternative monitoring method	Yes.	
§ 63.8(f)(6)	Alternative to relative accuracy test	No	only applies to sources that use continuous emissions monitoring systems (CEMS).
§ 63.8(g)	Data reduction	Yes	applies as modified by § 63.9005(f).
§ 63.9(a)	Notification requirements—applicability	Yes.	
§ 63.9(b)	Initial notifications	Yes	except § 63.9045(c) requires new or reconstructed affected sources to submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification that a new source is subject to special compliance requirements.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of visible emissions/opacity test.	No	subpart NNNNN does not have opacity or visible emission standards.
§ 63.9(g)(1)	Additional CPMS notifications—date of CPMS performance evaluation.	Yes.	
§ 63.9(g)(2)	Use of COMS data	No	subpart NNNNN does not require the use of COMS.
§ 63.9(g)(3)	Alternative to relative accuracy testing	No	applies only to sources with CEMS.
§ 63.9(h)	Notification of compliance status	Yes.	
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.10(a)	Recordkeeping/reporting applicability	Yes.	

TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

[As stated in § 63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§ 63.10(b)(1)	General recordkeeping requirements	Yes	§§ 63.9055 and 63.9060 specify additional recordkeeping requirements.
§ 63.10(b)(2) (i)–(xi)	Records related to startup, shutdown, and malfunction periods and CPMS.	Yes.	
§ 63.10(b)(2)(xii)	Records when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to relative accuracy test.	No	applies only to sources with CEMS.
§ 63.10(b)(2)(xiv)	All documentation supporting initial notification and notification of compliance status.	Yes.	
§ 63.10(b)(3)	Recordkeeping requirements for applicability determinations.	Yes.	
§ 63.10(c)	Additional recordkeeping requirements for sources with CPMS.	Yes	applies as modified by § 63.9005(f).
§ 63.10(d)(1)	General reporting requirements	Yes	§ 63.9050 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance test results	Yes.	
§ 63.10(d)(3)	Opacity or visible emissions observations.	No	subpart NNNNN does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports for sources with compliance extensions.	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes.	
§ 63.10(e)(1)	Additional CPMS reports—general	Yes	applies as modified by § 63.9005(f).
§ 63.10(e)(2)(i)	Results of CPMS performance evaluations.	Yes	applies as modified by § 63.9005(f).
§ 63.10(e)(2)(ii)	Results of COMS performance evaluations.	No	subpart NNNNN does not require the use of COMS.
§ 63.10(e)(3)	Excess emissions/CPMS performance reports.	Yes.	
§ 63.10(e)(4)	Continuous opacity monitoring system data reports.	No	subpart NNNNN does not require the use of COMS.
§ 63.10(f)	Recordkeeping/reporting waiver	Yes.	
§ 63.11	Control device requirements—applicability.	No	facilities subject to subpart NNNNN do not use flares as control devices.
§ 63.12	State authority and delegations	Yes	§ 63.9070 lists those sections of subparts NNNNN and A that are not delegated.
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes	subpart NNNNN does not incorporate any material by reference.
§ 63.15	Availability of information/ confidentiality	Yes.	

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