economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, 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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

§ 165.T09–135 [Removed]

2. Remove § 165.T09–135.

§ 165.T09–136 [Removed]

3. Remove § 165.T09–136.

4. Add § 165.915 to read as follows:

§ 165.915 Security zones; Captain of the Port Toledo Zone, Lake Erie.

(a) *Security zones.* The following areas are security zones:

(1) *Enrico Fermi 2 Nuclear Power Station.* All waters and adjacent shoreline encompassed by a line commencing at 41°58.4′ N, 083°15.4′ W; then northeast to 41°58.5′ N, 083°15.0′ W; then southeast to 41°58.2′ N, 083°13.7′ W; then south to 41°56.9′, N 083°13.8′ W; then west to 41°56.9′ N, 083°15.2′ W; then back to the starting point at 41°58.4′ N, 083°15.4′ W (NAD 83).

(2) *Davis Besse Nuclear Power Station.* All waters and adjacent shoreline encompassed by a line commencing at 41°36.3′ N, 083°04.9′ W; north to 41°37.0′ N, 083°03.9′ W; east to 41°35.9′ N, 083°02.5′ W; southwest to 41°35.4′ N, 083°03.7′ W; then back to the starting point 41°36.3′ N, 083°04.9′ W. (NAD 83).

(b) *Regulations.* (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Toledo. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit through either of these security zones, prior to transiting, must contact the Captain of the Port Toledo at telephone number (419) 418–6050, or on VHF/FM channel 16 and request permission. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: April 26, 2002.

D.L. Scott,

Commander, U.S. Coast Guard, Captain of the Port Toledo.

[FR Doc. 02–11492 Filed 5–7–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7207–7]

RIN 2060–AG93

National Emission Standards for Hazardous Air Pollutants: Semiconductor Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for semiconductor manufacturing operations. The EPA has identified these operations as major sources of emissions of hazardous air pollutants (HAP) such as hydrochloric acid (HCl), hydrofluoric acid (HF), glycol ethers, methanol, and xylene. These HAP are associated with a variety of adverse health effects. These adverse health effects include irritation of the lung, skin, and mucus membranes, effects on the central nervous system, and damage to the skeleton system. These proposed NESHAP would require all semiconductor manufacturing facilities that are major sources to meet emission standards reflecting the application of the maximum achievable control technology (MACT).

DATES: *Comments.* Submit comments on or before July 8, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by May 28, 2002, a public hearing will be held on June 7, 2002.

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–97–15, 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–97–15, 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 **FOR FURTHER INFORMATION CONTACT.**

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

Docket. Docket No. A–97–15 includes source category-specific supporting information for Semiconductor Manufacturing. The docket is located at the U.S. EPA, Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500 (ground floor), 401 M Street SW., Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed rule, contact Mr. John Schaefer, US EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone (919) 541–0296, e-mail: *schaefer.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: *a-and-r-docket@epa.gov.* Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® format. All comments and data submitted in electronic form must note the appropriate docket number (*see* **ADDRESSES**). 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: John Schaefer, c/o OAQPS Document Control Officer (Room 740B), 411 W. Chapel Hill Street, Durham, North Carolina 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 the EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Maria Noell, Organic Chemicals Group, Emission Standards Division (MD–13), US EPA, Research Triangle Park, North Carolina, 27711, telephone number (919) 541–5607 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing should also call Ms. Noell 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 the record compiled by the EPA in the development of this rulemaking. 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 Clean Air Act (CAA).) The regulatory text and other materials related to this rulemaking 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.

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

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS code	SIC code	Examples of regulated entities
Industrial	334413	3674	Semiconductor crystal growing facilities, semiconductor wafer fabrication facilities, semiconductor test and assembly facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers 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 § 63.7181 of the proposed subpart. If you have any questions regarding the applicability of this action to a particular entity, consult the person(s) 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?
B. What criteria are used in the development of NESHAP?
C. What are the health effects associated with the pollutants emitted from semiconductor manufacturing operations?
II. Summary of the Proposed NESHAP
A. What is the source category to be regulated?
B. What are the primary sources of emissions and what are the baseline emissions?
C. What is the affected source?
D. What are the emission limits?
E. When must I comply with these proposed NESHAP?
F. What are the testing and initial and continuous compliance requirements?
G. What are the notification, recordkeeping, and reporting requirements?
III. Rationale for Selecting the Proposed Standards
A. How did we select the source category?
B. How did we select the affected source?
C. How did we determine the basis and level of the proposed standards for existing and new sources?
D. Did we consider control options more stringent than the MACT floor?
E. How did we select the compliance, monitoring, recordkeeping, and reporting requirements?
IV. Summary of Environmental, Energy, and Economic Impacts
A. What are the secondary and energy impacts associated with these proposed NESHAP?
B. What are the cost impacts?
C. What are the economic impacts?
V. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
C. Executive Order 13132, Federalism
D. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use
F. Unfunded Mandates Reform Act of 1995
G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act

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. The Semiconductor Manufacturing source

category was listed on July 16, 1992 (57 FR 31576). As specified in section 112(a) of the CAA, a major source of HAP is any stationary source or group of stationary sources within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year (tpy) or more of any single HAP or 25 tpy or more of any combination of HAP.

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

Section 112 of the CAA requires us to 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, taking into consideration the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that all major sources achieve the level of control already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, NESHAP cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The NESHAP for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (or the best-performing 5 sources 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 following consideration of cost, any health and environmental impacts, and energy requirements.

C. What Are the Health Effects Associated With the Pollutants Emitted From Semiconductor Manufacturing Operations?

The primary HAP emitted by the semiconductor manufacturing industry are HCl, HF, glycol ethers, methanol, and xylene.

Glycol ethers. Glycol ethers are a large group of related compounds. Acute (short-term) exposure in humans to high levels of glycol ethers results in narcosis, pulmonary edema, and severe liver and kidney damage. Chronic (long-term) exposure to glycol ethers may result in neurological and blood effects, including fatigue, nausea, tremors, and anemia. No information is available on the reproductive, developmental, or carcinogenic effects of glycol ethers in humans. Animal studies have reported reproductive and developmental effects, including testicular damage, reduced fertility, maternal toxicity, early embryonic death, birth defects, and delayed development. The EPA has not classified any glycol ether compounds for carcinogenicity.

Hydrochloric acid. Hydrochloric acid is corrosive to the eyes, skin, and mucous membranes. Acute inhalation exposure may cause eye, nose, and respiratory tract irritation and inflammation and pulmonary edema in humans. Chronic 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. The EPA has not classified HCl for carcinogenicity.

Hydrogen fluoride. Acute inhalation exposure to gaseous HF can cause severe respiratory damage in humans, including severe irritation and pulmonary edema. While the respiratory effects are attributable to the HF compound, other effects, including those associated with chronic exposures are attributable to the fluoride ion absorbed into the body (as a result of inhalation or ingestion of various fluoride compounds, including HF). Chronic exposure to fluoride at certain levels may cause dental fluorosis or mottling, while very high exposures through drinking water or air can result in crippling skeletal fluorosis. One study reported menstrual irregularities in women occupationally exposed to fluoride. The EPA has not classified HF for carcinogenicity.

Methanol. Acute or chronic exposure of humans to methanol by inhalation or ingestion may result in blurred vision, headache, dizziness, and nausea. No information is available on the reproductive, developmental, or carcinogenic effects of methanol in humans. Birth defects have been observed in the offspring of rats and mice exposed to methanol by inhalation. A methanol inhalation study using rhesus monkeys reported a decrease in the length of pregnancy and limited evidence of impaired learning ability in offspring. The EPA has not classified methanol with respect to carcinogenicity.

Xylene. Short-term inhalation of mixed xylenes (a mixture of three closely-related compounds) in humans may cause irritation of the nose and throat, nausea, vomiting, gastric irritation, mild transient eye irritation, and neurological effects. Long-term inhalation of xylenes in humans may result in nervous system effects such as headache, dizziness, fatigue, tremors, and incoordination. Other reported effects include labored breathing, heart palpitation, severe chest pain, abnormal electrocardiograms, and possible effects on the blood and kidneys. The EPA has classified mixed xylenes as Group D carcinogens, not classifiable with respect to human carcinogenicity.

II. Summary of the Proposed NESHAP

A. What Is the Source Category To Be Regulated?

The Semiconductor Manufacturing source category includes operations used to manufacture p-type and n-type semiconductors and active solid-state devices from a wafer substrate. Research and development activities located at a site manufacturing p-type and n-type semiconductors and active solid-state devices are included in the definition of semiconductor manufacturing. Examples of semiconductor or related solid-state devices include semiconductor diodes, semiconductor stacks, rectifiers, integrated circuits, and transistors. The source category includes all manufacturing from crystal growth through wafer fabrication, and test and assembly.

The crystal growing stage is where crystalline wafers of silicon or other specific semiconducting materials are manufactured for use as the substrate in the wafer fabrication process. Crystal growing begins with the storage of the raw materials (usually trichlorosilane, which is refined from ordinary sand) and ends with the final polishing of a wafer.

The wafer fabrication process is where a group of integrated circuits are created on the wafer through a series of pattern-forming processes. Wafer fabrication begins at the point where the wafer receives its first protective oxidative layer and ends when a functional integrated circuit or circuits have been created on a wafer.

The test and assembly process is the final step in the integrated circuit manufacturing process and begins when a wafer is cut into individual chips. The chips are then mounted onto a metal

frame, connected to the leads, and enclosed in a protective housing. The process endpoint is the last test performed at an assembly facility to verify proper function of a completed integrated circuit housing.

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

We estimate nationwide HAP emissions from the semiconductor manufacturing industry to be 636 tpy. More than 90 percent of these emissions come from process vents at these facilities. We estimate that five chemicals comprise over 90 percent of the total HAP emissions: HCl, HF, glycol ethers, methanol, and xylene.

C. What Is the Affected Source?

For the Semiconductor Manufacturing source category, the affected source includes the collection of all semiconductor manufacturing units used to manufacture p-type and n-type semiconductors and active solid-state devices from a wafer substrate, research and development activities on a semiconductor manufacturing site, and storage tanks located at a major source.

A semiconductor manufacturing unit is the equipment assembled and connected by duct work or hard-piping including: furnaces and associated unit operations; associated wet and dry work benches; associated recovery devices; feed, intermediate, and product storage tanks; product transfer racks and connected ducts and piping; pumps, compressors, agitators, pressure-relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; and control devices. We have identified three distinct processes used in the manufacture of these semiconductors and devices: crystal growing, wafer fabrication, and assembly and test. A semiconductor manufacturing unit is typically engaged in one of these processes.

D. What Are the Emission Limits?

We are proposing NESHAP that would regulate HAP emissions from process vents and storage tank vents at semiconductor manufacturing facilities. We are proposing the same requirements for existing and new sources. We are proposing that all major sources reduce process vent HAP outlet concentrations by 98 percent from their uncontrolled levels. As an alternative, process vents may be controlled to a level below 20 parts per million volume (ppmv) HAP, corrected to 3 percent oxygen. We are proposing that all major sources reduce storage tank vent HAP outlet concentrations by 99 percent from their uncontrolled levels. As an alternative, storage tank vents may be controlled to a level below 1 ppmv HAP.

E. When Must I Comply With These Proposed NESHAP?

Existing semiconductor manufacturing affected sources must comply with the rule no later than 3 years from the effective date of the promulgated subpart. New or reconstructed affected sources that startup before the effective date of the promulgated subpart must comply with the rule no later than the effective date of the promulgated subpart unless the provisions in section 112(i)(2) of the CAA apply. New or reconstructed affected sources that startup after the effective date of the promulgated subpart must comply with the rule upon startup of the affected source.

F. What Are the Testing and Initial and Continuous Compliance Requirements?

We are proposing testing and initial and continuous compliance requirements that are, where appropriate, based on procedures and methods that we have previously developed and used for sources similar to those for which standards are being proposed today. For example, we are proposing compliance determination procedures, performance tests, and test methods to determine what level of control a process vent needs to achieve to demonstrate compliance with the standards.

We are proposing compliance procedures to determine process vent and storage tank vent flow rates and HAP concentrations. The proposed test methods parallel what we have used for process vents in previous organic HAP emissions standards (e.g., the Hazardous Organic NESHAP (HON)). For measuring vent stream flow rate, we propose the use of Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A. For measuring total vent stream organic HAP concentration to determine whether it is below a specified level, we propose the use of Method 18 of 40 CFR part 60, appendix A. For measuring the total HAP concentration of emission streams with inorganic HAP to determine if it is below a specified level, we propose the use of Method 320 of 40 CFR part 60, appendix A.

Additionally, we are proposing to require initial performance tests for all process vent and storage tank vent HAP emission control devices other than flares and certain boilers and process heaters. For vents controlled using flares, we are not requiring performance tests because we have developed design specifications that ensure these devices will achieve 98 percent destruction efficiency. As with the HON, we are not proposing a requirement to perform an initial performance test for boilers and process heaters larger than 44 megawatts (MW) because they operate at high temperatures and residence times. In general, the higher the temperature and residence time, the greater the level of HAP destruction that is achieved by a control device. Therefore, boilers and process heaters larger than 44 MW easily achieve the required 98 percent destruction efficiency or the alternative requirement to reduce outlet concentrations below 20 ppmv.

For all other types of control devices, the proposed NESHAP require the owner or operator to conduct a performance test to demonstrate that the control device can achieve the required control level and to establish operating parameters to be maintained to demonstrate continuous compliance. The proposed testing requirements for semiconductor manufacturing list the parameters that can be monitored for the common types of combustion devices. For other control devices, we require that an owner or operator establish site-specific parameter ranges for monitoring purposes through the Notification of Compliance Status Report and through the facility's operating permit. Parameters selected are required to be good indicators of continuous control device performance.

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

We are proposing notification, recordkeeping, and reporting requirements in accordance with the part 63 General Provisions (40 CFR part 63, subpart A) and other previously promulgated NESHAP for similar source categories.

We are proposing that owners or operators of semiconductor manufacturing affected sources submit the following four types of reports: an Initial Notification Report, a Notification of Compliance Status Report, periodic compliance reports, reports of changes and other specified events. Records of reported information and other information necessary to document compliance with the promulgated standards would be required to be kept for 5 years. Equipment design records would be required to be kept for the life of the equipment.

For the Initial Notification Report, we are proposing that you list the

semiconductor manufacturing operations at your facility, and the provisions of the rule that may apply. The Initial Notification Report must also state whether your facility can achieve compliance by the specified compliance date. You must submit this notification within 1 year after the date of promulgation of these NESHAP for existing sources, and within 180 days before commencement of construction or reconstruction of an affected source.

For the Notification of Compliance Status Report, we are proposing that you submit the information necessary to demonstrate that compliance has been achieved, such as the results of performance tests and design analyses. For each test method that you use for a particular kind of emission point (e.g., process vent), you must submit one complete test report. This notification must also include the specific range established for each monitored parameter for each emission point for demonstrating continuous compliance, and the rationale for why this range indicates proper operation of the control device.

We are proposing that you submit semiannual compliance reports. These reports must include a statement that no deviations from the emission limitations occurred during the reporting period, and that no continuous monitoring system (CMS) was inoperative, inactive, malfunctioning, out-of-control, repaired, or adjusted. Additionally, a statement must be included if you had a startup, shutdown, or malfunction during the reporting period, and you took actions consistent with your Startup Shutdown and Malfunction Plan (SSMP). For process and storage tank vents, records of continuously monitored parameters must be kept. Records that such inspections or measurements were performed must be kept, but results are included in your periodic report only if there is a deviation from the operating limit. For each deviation from an emission limit, the semiannual compliance reports must document the time periods of each deviation; its cause; whether it occurred during a period of startup, shutdown, or malfunction; and whether and what time periods the CMS was inoperative or out of control.

We are proposing that you submit an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction that is not consistent with your SSMP.

Other proposed reporting requirements include reports to notify the regulatory authority before or after a specific event (e.g., if a process change is made, requests for extension of repair period).

III. Rationale for Selecting the Proposed Standards

A. How Did We Select the Source Category?

The Semiconductor Manufacturing source category includes facilities that grow crystalline wafers for use in the manufacture of semiconductors, engage in the manufacture of p-type and n-type semiconductors and active solid-state devices, or engage in the assembly and test of semiconductor devices. The Semiconductor Manufacturing source category was included on the initial source category list at 57 FR 31576 (July 16, 1992). It was included on the list because there were facilities emitting HAP at major source levels, as defined in section 112(a) of the CAA.

However, since the initial listing, most of these semiconductor facilities have controlled emissions to levels below major source thresholds. As a result, during the course of developing this rulemaking, EPA received several requests from the Semiconductor Industry Association (SIA) to delist the semiconductor source category pursuant to CAA section 112(c)(1). These requests and comments are included in the docket (A–97–15).

We recognize this proposal will be of limited significance because it would regulate only a single source that, standing alone, has very small emissions. We nonetheless believe promulgation of standards for this source category is compelled by the Act. Section 112(a) defines ''major source'' as ''any stationary source or group of stationary sources located within a contiguous area and under common control, that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.'' Thus, sources such as the semiconductor manufacturing source subject to this rule are considered part of a major source when they are collocated with other sources at facilities that in combination have the potential to emit over the major source thresholds. Because the statute is clear that such collocated sources must be considered major, we believe it is also clear in the statute that we must list categories that include such sources and promulgate standards for those categories pursuant to section 112(d).

Notwithstanding our reading of the Act, EPA requests comments on the appropriateness of including semiconductor manufacturing as a source category for regulation under CAA section 112(d). We will respond to SIA's pre-proposal requests and all additional comments in any final action on this rulemaking. We believe this approach is consistent with the approach outlined in section 112(e)(4), which indicates that EPA's decision to list a source category is not a reviewable final agency action unless, and until, EPA issues emissions standards for that category. See also *National Asphalt Paving Ass'n* v. *EPA*, 539 F.2d 775, 779 n.2 (D.C. Cir. 1976) (describing similar approach for category listing under CAA section 111).

B. How Did We Select the Affected Source?

In selecting the affected source for the Semiconductor Manufacturing source category, we included all equipment that emits HAP or has the potential to emit HAP, such as process vents, storage tanks, wastewater, and fugitive sources. We also included within the affected source other auxiliary equipment that is necessary to make the operation run, but which may not emit HAP. We did this to ensure that all equipment necessary to run a semiconductor manufacturing operation is included under these proposed NESHAP. In addition, we also included all research and development activities located at a site engaged in the manufacture of semiconductors. Thus, we are defining the affected source broadly to include the sum of all operations engaged in the manufacture of semiconductors.

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

We identified six facilities as having the potential to emit greater than the major source emissions threshold, but for the presence of add-on controls. A seventh facility was identified as being a major source due to the fact that it is collocated with other HAP-emitting processes. These seven facilities were evaluated to determine the MACT floor level of control.

Based on data gathering efforts that included site visits, industry survey responses, and literature searches, we identified three potential sources of HAP emissions for the semiconductor manufacturing industry: Process vents, storage tanks, and wastewater treatment. We did not consider equipment leaks as a separate emissions source because any potential emissions from this source are emitted into the manufacturing buildings and are included as part of process vent emissions.

We established a floor for process vents based on testing data that we collected for several vents. Additionally, we established a floor for storage tanks based on testing data we collected for HCl storage tanks in the HCl production industry. We could identify no emission controls, work practices, or other techniques currently used at these facilities to reduce HAP emissions from wastewater treatment based on the information obtained from the data gathering efforts. Therefore, MACT for wastewater treatment is based on no emission reduction.

For a source category with under 30 sources, section 112(d)(3) of the CAA directs that the MACT floor for existing sources be based on the average emission limitation achieved by the best performing five sources. The MACT floor for new sources in a source category is required to reflect the level of control being achieved by the best controlled similar source. The term ''average'' is not defined in the CAA, but we have interpreted ''average,'' as used in section 112(d)(3), to include the mean, median, mode, or some other measure of central tendency (59 FR 29196, June 6, 1994). In this MACT floor analysis, we chose a modal analysis to determine the most frequently used control technology reported by the best performing sources.

For both the process vent and storage tank MACT floor analyses, we evaluated performance in terms of control device removal efficiency. In other words, the ''best performing'' semiconductor manufacturing facilities are those with the highest removal efficiencies.

Semiconductor manufacturing units typically produce process vent emission streams that contain either organic or inorganic compounds. At some facilities, the organic and inorganic process vent emission streams are segregated to facilitate control, while others combine them into one or more common exhaust streams. For purposes of the MACT floor analysis, all the data obtained for process vents were considered together. We made no distinction between organic, inorganic, or combined emission streams for the test data because the same level of control can be achieved whether the streams are segregated or combined.

A total of 26 process vents were reported at the seven facilities that make up the MACT floor data set. We calculated removal efficiency from the inlet and outlet concentration values for each process vent emission stream. We then ranked process vents from highest to lowest removal efficiency. We performed the ranking this way to determine the most prevalent control technology, not to determine the average removal efficiency, since the performance of control devices in the semiconductor manufacturing industry is affected by highly variable inlet conditions. The performance of these control devices varies in response to inlet conditions and is more erratic at lower inlet conditions. Any single control device will perform at peak efficiency on an episodic basis under optimum conditions, but the removal efficiencies represented by these test results cannot be maintained under all operating conditions that are typical in the semiconductor manufacturing industry.

We determined the MACT floor for process vents for existing sources from the best performing five sources, rather than the average of the top 12 percent because fewer than 30 sources are represented. Four of the top five best performing sources use some form of thermal oxidation; therefore, thermal oxidation is the technology basis of the MACT floor.

Consistent with other previously promulgated NESHAP for process vents, such as the HON (40 CFR part 63, subpart G), the level of control deemed to be generally achievable by a combustion control device, such as thermal oxidation, is 98 percent removal efficiency. We selected this value as the MACT floor for process vents at existing semiconductor manufacturing facilities. Because the same considerations for low concentration, high flow exhaust streams apply equally to new sources, and the best controlled source uses a thermal oxidizer, we also selected this level of control as the new source MACT floor for vents.

In order to account for the variability in the performance of control devices used in the semiconductor manufacturing industry, as well as the increased variability inherent in the test methods when analyzing the high flow, low concentration process vent emission streams typically controlled by these devices, the MACT floor includes an alternate format based on outlet concentration of HAP. This alternate format is intended to provide facilities with added flexibility to comply with the standard when the inlet concentration of the add-on control device drops below the point where optimum control efficiency can be achieved, and it would not be feasible to require optimum performance levels (expressed in terms of removal efficiency) to be met. To again be consistent with previous NESHAP that have specified a control level of 98 percent through the use of a combustion control device, we selected the alternate format for the MACT floor that would allow a facility to meet a HAP concentration limit of 20 ppmv for their vents. This level has been used in many other rules, including 40 CFR part 63, subpart SS, which is referenced by this action.

We obtained data on control of HAP emissions from storage tanks from six semiconductor manufacturing facilities, representing a total of 56 storage tanks. Emission controls were reported on 29 of these tanks. The materials stored in the controlled tanks were HCl and HF. In all cases, the control device was a scrubber. Therefore, scrubbers were selected as the technology basis of the storage tank MACT floor.

The semiconductor manufacturing industry was unable to provide control device removal efficiency or emissions data for the storage tank scrubbers. Therefore, we developed a floor based on scrubber performance data from scrubbers applied to storage tank vents in the HCl production industry, which would be expected to have similar characteristics.

We reviewed data from 17 sources in the HCl production source category. Because we had less than 30 sources, we based the floor on the best performing five facilities. The performance of the scrubber at the median facility of the best performing five was 99 percent HAP removal. Therefore, we chose 99 percent HAP removal as the floor. Similar to process vents, the concentration of HAP in storage tank exhaust streams is low and can vary widely. Low and variable inlet concentrations can result in high variability in scrubber removal efficiency. For this reason, we are proposing an alternative emission limit of 1 ppmv for storage vents. The value of 1 ppmv is the detection limit of the test method we are proposing for HCl and HF. Therefore, this is the lowest level outlet concentration we can specify because this is the lowest level we can measure.

We have no data on the performance of these scrubbers in reducing HF emissions. However, because HF has a similar solubility to HCl, it is reasonable to assume that scrubbers can also reduce HF emissions by 99 percent or to 1 ppmv.

The semiconductor industry reported storage tank capacities ranging from 300 gallons to 16,000 gallons. We ranked the tanks by their capacity and examined which tanks reported controls on their vents. The smallest storage tank with controls is 800 gallons. Five storage tanks in our data set are smaller than 800 gallons and do not control their emissions. Therefore, we have

concluded that it is not feasible to control storage tanks of less than 800 gallons. We are proposing that facilities control HAP emissions from vents by 99 percent or reduce HAP emissions to no more than 1 ppmv for all storage tanks 800 gallons or larger.

D. Did We Consider Control Options More Stringent Than the MACT Floor?

We considered control options more stringent than the MACT floor for process vents, storage tanks, and wastewater treatment. No such control options were determined to be feasible.

The MACT floor of 98 percent control for process vents was determined to be the highest level of control achievable on a consistent basis. While control devices such as thermal oxidizers can be operated under certain conditions to achieve greater than 98 percent removal efficiency, this was not deemed achievable on a consistent basis for the varying emission streams present throughout the semiconductor manufacturing industry. Thus, no regulatory alternatives above the floor value of 98 percent control were identified that were expected to be technically feasible.

For storage tanks, the MACT floor of 99 percent control was determined to be the highest level of control achievable on a consistent basis. Like thermal oxidizers, scrubbers can be operated under certain conditions to achieve greater than 99 percent removal efficiency. However, due to the variability of HAP concentrations in storage tank emission streams, this was not deemed achievable on a consistent basis. Thus, no regulatory alternatives above the floor value of 99 percent control were identified that were expected to be technically feasible.

No wastewater HAP emission controls were identified for the semiconductor manufacturing industry. Wastewater streams from the semiconductor manufacturing industry consist predominately of acids (e.g., HCl), which do not readily volatilize. In addition, the concentration of HAP contained in these wastewater streams is very small, typically on the order of 3 to 4 ppmv. Due to these factors, the potential for emissions is very small. Due to this low level of emissions, we could not identify any technically or economically feasible control options.

Finally, we examined process changes that would reduce the amount of HAP used, and thus, have the potential to reduce HAP emissions from all emission points. Specifically, we considered requiring industry to increase the size of wafers used in the manufacture of integrated circuits. Industry studies indicate that going from one wafer size to the next larger size decreases a facility's HAP usage by about 20 to 30 percent. Typically, sizes used are 4, 6, and 8 inch wafers.

We have determined, however, that these process changes are not cost effective because an increase in wafer size requires replacing most of the equipment in a wafer fabrication facility. The one major source covered by these NESHAP would need to replace approximately $150 million worth of equipment in order to reduce HAP emissions by several hundred pounds. Therefore, we determined that process changes would not be a cost-effective or practical method for reducing HAP emissions at this time without a further evaluation of risk.

E. How Did We Select the Compliance, Monitoring, Recordkeeping, and Reporting Requirements?

The general recordkeeping and reporting requirements of these proposed NESHAP are very similar to those found in the HON (40 CFR part 63, subparts F, G, and H). You are also required to comply with the notification, recordkeeping, and reporting requirements in the General Provisions (40 CFR part 63 subpart A). We have included a table in the proposed subpart BBBBB that designates which sections of subpart A apply.

General compliance, monitoring, recordkeeping, and reporting requirements for emission points are contained within the proposed NESHAP. We specify compliance procedures necessary to determine the required level of control for process vents. We based the selection of emission point and/or control device-specific monitoring (including continuous monitoring), recordkeeping, and reporting requirements on the requirements contained in 40 CFR part 63, subpart SS for closed vent systems, control devices, recovery devices and routing to a fuel gas system or a process. Subpart SS contains a common set of monitoring, recordkeeping, and reporting requirements. We established these subparts to ensure consistency among emission requirements applied to similar emission points with pollutant streams containing gaseous HAP. We have proposed changes to the performance specifications for continuous compliance monitoring devices contained within subpart SS (65 FR 76408, December 6, 2000). Background information and public comments on the proposed changes can be found in Docket A–97–17. Interested parties should consider the proposed changes to subpart SS when reviewing and commenting on today's action for the Semiconductor Manufacturing source category.

As with the HON, we are not proposing a requirement to perform an initial performance test for boilers and process heaters larger than 44 MW because they operate at high temperatures and residence times. Analysis shows that when vent streams are introduced into the flame zone of these boilers and process heaters, greater than 98 weight-percent of HAP emissions are reduced, or the outlet concentration of HAP is below 20 ppmv, corrected to 3 percent oxygen. For flares, a percent reduction or outlet concentration measurement is not feasible. Therefore, we determined that a performance test is not necessary for boilers and process heaters larger 44 MW, or for flares. For all other types of control devices, the proposed NESHAP require the owner or operator to conduct a performance test to demonstrate that the control device can achieve the required control level and to establish operating parameters to be maintained to demonstrate continuous compliance. We believe that the compliance, monitoring, recordkeeping, and reporting requirements of the proposed NESHAP are consistent with subpart SS and the HON.

IV. Summary of Environmental, Energy, and Economic Impacts

This section presents projected impacts for existing sources only. We did not calculate impacts for new sources because we do not project any new major sources will commence construction in the foreseeable future. We expect that any new sources will have HAP emissions below major source thresholds. The industry trend over the past several years has been that HAP emissions have decreased while semiconductor production has increased. As a result, only one source in the industry is still a major source of HAP, and only because it is collocated at a facility with other HAP-emitting operations. We do not project that any other new semiconductor sources would be built on the site of another operation. We also project that the types of technologies that have evolved (*e.g.*, producing larger wafers), which are inherently less emitting, will continue.

A. What Are the Secondary and Energy Impacts Associated With These Proposed NESHAP?

We do not anticipate any significant increase in national annual energy usage as a result of these proposed NESHAP. Energy impacts include changes in

energy use, typically increases, and secondary air impacts associated with increased energy use. Increases in energy use are associated with the operation of control equipment—in this case, the use of thermal oxidizers—to control process vents. Secondary air impacts associated with increased energy use are the emission of particulates, sulfur oxides (SO_X), and nitrogen oxides (NO_X). These secondary impacts are associated with power plants that would supply the increased energy demand. Since we project these NESHAP will apply to only one existing major source, no significant new control equipment requirements are expected. Therefore, secondary and energy impacts will be negligible.

B. What Are the Cost Impacts?

Although we estimate there are approximately 127 facilities engaged in semiconductor production, we estimate that the source category contains only one existing major source subject to the regulatory provisions specified under these proposed NESHAP. The remaining facilities are either area sources or synthetic minor sources, which are sources that have the potential to emit above major source thresholds but have taken enforceable permit conditions limiting their HAP emissions to below these major source thresholds.

We estimate that the one existing major source will not incur any control costs or annual operating and maintenance costs to comply with these proposed NESHAP. We estimate the one major source will incur a $5,180 cost to conduct all monitoring, inspection, reporting, and recordkeeping (MIRR) activities during the first 3 years after promulgation of the NESHAP. Other sources will not incur any costs from these proposed NESHAP. Because no capital costs will be incurred by the one major source, the total cost of the proposed NESHAP will be $5,180 in MIRR costs.

C. What Are the Economic Impacts?

The proposed NESHAP apply to only one major existing source, and no significant new control equipment requirements are expected. We estimate the MIRR costs for this facility to be only $5,180 over a 3-year period. Therefore, no economic impact on the industry is expected.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a proposed regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that the proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

B. 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 Agency 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 rule. This proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. Additionally, the proposed rule is not economically significant as defined by Executive Order 12866.

C. 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. No facilities subject to the proposed rule are owned by State or local governments, and the rule imposes no other obligations on State and local governments. Thus, Executive order 13132 does 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, EPA specifically solicits comment on this proposed rule from State and local officials.

D. 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 9, 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. No tribal governments own or operate semiconductor manufacturing facilities, and the rule imposes no obligations on

tribal governments. 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.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

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.

F. 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, we 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 the proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more by State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total cost to the private sector is approximately $22,700 per year. The proposed rule contains no mandates affecting State, local, or Tribal governments. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

We have also determined that the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because the proposal contains no requirements that apply to such governments nor imposes obligations upon them.

G. 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 prepare 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 proposed rule on small entities, small entity is defined as: (1) A small business according to Small Business Administration (SBA) size standards for NAICS code 334413 (i.e., semiconductor crystal growing facilities, semiconductor wafer fabrication facilities, semiconductor test and assembly facilities) whose parent company has 500 or fewer employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Based on the above definition of small entities, the Agency has determined that there are no small businesses within this source category that would be subject to these proposed NESHAP. Therefore, because these proposed NESHAP will not impose any requirements on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

H. Paperwork Reduction Act

The information collection requirements in this proposed rule have been 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 No. 2042.01), and you may obtain a copy from Sandy Farmer by mail at the U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue NW., Washington, DC 20460, by e-mail 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. The annual monitoring, reporting, and recordkeeping burden for this collection, as averaged over the first 3 years after the effective date of the rule, is estimated to be 35 labor hours per year at a total annual cost of $1,727. This estimate includes a one-time plan for demonstrating compliance, annual compliance certificate reports, notifications, and recordkeeping. Total labor burden associated with the monitoring requirements over the 3-year period of the ICR are estimated at $5,180.

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. EPA (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 May 8, 2002, a comment to OMB is best assured of having its full effect if OMB receives it by June 7, 2002. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in our 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, and business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

These proposed NESHAP involve technical standards. The EPA proposes in this rule to use EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 18, 25, 25A, 26, 26A, 316, and 320. Consistent with the NTTAA, 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, 2G, and 316. The search and review results have been documented and are placed in Docket A–97–15.

The consensus standard, ASTM D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS), is appropriate in the cases described below for inclusion in these proposed NESHAP for measurement of xylene, in addition to EPA Method 18, codified at 40 CFR part 60, appendix A.

Similar to EPA's performance-based Method 18, ASTM D6420–99 is also a performance-based method for measurement of gaseous organic compounds. However, ASTM D6420–99 was written to support the specific use of highly portable and automated GC/MS. While offering advantages over the traditional Method 18, the ASTM method does allow some less stringent criteria for accepting GC/MS results than required by Method 18. Therefore, ASTM D6420–99 is a suitable alternative to Method 18 only where the target compound(s) are those listed in section 1.1 of ASTM D6420–99, and the target concentration is between 150 parts per billion volume and 100 ppmv.

For target compound(s) not listed in Table 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, the regulation specifies that the additional system continuing calibration check after each run, as detailed in Section 10.5.3 of the ASTM method, must be followed, met, documented, and submitted with the data report, even if there is no moisture condenser used or the compound is not considered water soluble. For target compound(s) not listed in Table 1.1 of ASTM D6420–99, and not amenable to detection by mass spectrometry, ASTM D6420–99 does not apply.

As a result, EPA proposes to incorporate ASTM D6420–99 into 40 CFR 63.14 by reference for application under subpart SS of part 63. ASTM D6420–99 is being incorporated as an alternative to Method 18 for applicable situations discussed above. The EPA will also cite Method 18 as a gas chromatography (GC) option in addition to ASTM D6420–99. This will allow the continued use of GC configurations other than GC/MS.

In addition to the voluntary consensus standards EPA proposes to use in these NESHAP, this search for emissions measurement procedures identified 17 other voluntary consensus standards. The EPA determined that 13 of these 17 standards identified for measuring emissions of HAP or surrogates subject to emission standards in the proposed NESHAP were impractical alternatives to EPA test methods for the purposes of these proposed NESHAP. Therefore, EPA does not propose to adopt these standards today.

The following three of the 17 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of these proposed NESHAP because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2; and ISO/DIS 12039, "Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods," for EPA Method 3A. While we are not proposing to include these three voluntary consensus standards in today's proposed NESHAP, the EPA will consider the standards when final.

One of the 17 voluntary consensus standards identified in this search, ASTM D6348–98, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," is under consideration by the EPA as an alternative for EPA Method 320. This ASTM standard has been reviewed by EPA and comments were sent to ASTM. Currently, the ASTM Subcommittee D22–03 is now undertaking a revision of the ASTM standard. Upon successful ASTM balloting and demonstration of technical equivalency with the EPA FTIR methods, the revised ASTM standard could be incorporated by reference for EPA regulatory applicability.

The EPA takes comment on the compliance demonstration requirements in these NESHAP 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 standards. Emission test methods 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 63.7193 and table 1 to proposed subpart BBBBB lists the EPA testing methods included in the

proposed NESHAP. Under 40 CFR 63.8 (the General Provisions), a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 1, 2002.

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 BBBBB to read as follows:

Sec.

Subpart BBBBB—National Emission Standards for Hazardous Air Pollutants: Semiconductor Manufacturing

What This Subpart Covers

63.7180 What is the purpose of this subpart?
63.7181 Am I subject to this subpart?
63.7182 What parts of my facility does this subpart cover?
63.7183 When do I have to comply with this subpart?

Emission Standards

63.7184 What emission limitations, operating limits, and work practice standards must I meet?

Compliance Requirements

63.7185 What are my general requirements for complying with this subpart?
63.7186 By what date must I conduct performance tests or other initial compliance demonstrations?
63.7187 What performance tests and other compliance procedures must I use?
63.7188 What are my monitoring installation, operation, and maintenance requirements?

Applications, Notifications, Reports, and Records

63.7189 What applications and notifications must I submit and when?
63.7190 What reports must I submit and when?
63.7191 What records must I keep?
63.7192 In what form and how long must I keep my records?

Other Requirements and Information

63.7193 What parts of the General Provisions apply to me?
63.7194 Who implements and enforces this subpart?
63.7195 What definitions apply to this subpart?

Tables to Subpart BBBBB of Part 63

Table 1 to Subpart BBBBB of Part 63–Requirements for Performance Tests
Table 2 to Subpart BBBBB of Part 63–Applicability of General Provisions to Subpart BBBBB

Subpart BBBBB—National Emission Standards for Hazardous Air Pollutants: Semiconductor Manufacturing

What This Subpart Covers

§ 63.7180 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for semiconductor manufacturing facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission standards.

§ 63.7181 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a semiconductor manufacturing process unit that is a major source of hazardous air pollutants (HAP) emissions or that is located at, or is part of, a major source of HAP emissions.

(b) A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, any single HAP at a rate of 10 tons per year (tpy) or more or any combination of HAP at a rate of 25 tpy or more.

§ 63.7182 What parts of my facility does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source that you own or operate that manufactures semiconductors.

(b) An affected source subject to this subpart is the collection of all semiconductor manufacturing process units used to manufacture p-type and n-type semiconductors and active solid-state devices from a wafer substrate, including research and development activities at a semiconductor manufacturing site. A semiconductor manufacturing unit includes the equipment assembled and connected by ductwork or hard-piping, including furnaces and associated unit operations; associated wet and dry work benches; associated recovery devices; feed, intermediate, and product storage tanks; product transfer racks and connected ducts and piping; pumps, compressors, agitators, pressure-relief devices, sampling connecting systems, open-ended valves or lines, valves, connectors, and instrumentation systems; and control devices.

(c) Your affected source is a new affected source if you commence construction of the affected source after May 8, 2002, and you meet the applicability criteria in § 63.7181 at the time you commence construction.

(d) Your affected source is a reconstructed affected source if you meet the criteria for ''reconstruction,'' as defined in § 63.2.

(e) Your source is an existing affected source if it is not a new or reconstructed affected source.

§ 63.7183 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) and (2) of this section.

(1) If you start up your affected source before [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], then you must comply with the emission standards for new and reconstructed sources in this subpart no later than [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].

(2) If you start up your affected source after [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], then you must comply with the emission standards for new and reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission standards for existing sources no later than 3 years from [DATE OF PUBLICATION OF THE FINAL RULE 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 and an affected source subject to this subpart, paragraphs (c)(1) and (2) of this section apply.

(1) Any portion of your existing facility that is a new affected source as specified at § 63.7182(c), or a reconstructed affected source as specified at § 63.1782(d), must be in compliance with this subpart upon startup.

(2) Any portion of your facility that is an existing affected source, as specified at § 63.7182(e), must be in compliance with this subpart by not later than 3 years after it becomes a major source.

(d) You must meet the notification requirements in § 63.7189 and in subpart A of this part. You must submit some of the notifications (e.g., Initial

Notification) before the date you are required to comply with the emission limitations in this subpart.

Emission Standards

§ 63.7184 What emission limitations, operating limits, and work practice standards must I meet?

(a) If you have a new, reconstructed, or existing affected source, as defined in § 63.7182(b), you must comply with one of the emission limitations in paragraph (a)(1) or (2) of this section for each process vent that emits HAP. These limitations can be met by venting emissions from your process vent through a closed vent system to any combination of control devices meeting the requirements of § 63.982(a)(2).

(1) Reduce the emissions of total HAP from the process vent stream by 98 percent by weight, corrected to 3 percent oxygen.

(2) Reduce or maintain the concentration of emitted HAP from the process vent to less than or equal to 20 parts per million volume (ppmv).

(b) If you have a new, reconstructed, or existing affected source, as defined in § 63.7182(b), you must comply with one of the emission limitations in paragraph (b)(1) or (2) of this section for each storage tank (including waste and wastewater storage tanks) 800 gallons or larger if the emissions from the storage tank vent contains greater than 1 ppmv HAP. These limitations can be met by venting emissions from your storage tank through a closed vent system to a halogen scrubber meeting the requirements of §§ 63.983 (closed vent system requirements) and 63.994 (halogen scrubber requirements); the applicable general monitoring requirements of § 63.996; the applicable performance test requirements; and the monitoring, recordkeeping and reporting requirements referenced therein.

(1) Reduce the emissions of total HAP from each storage tank by 99 percent by weight.

(2) Reduce or maintain the concentration of emitted HAP from the process vent to less than or equal to 1 ppmv.

(c) If you have a new, reconstructed, or existing affected source, as defined at § 63.7182(b), you must comply with the applicable work practice standards and operating limits contained in § 63.982(a)(1) and (2). The closed vent system inspection requirements of § 63.983(c), as referenced by § 63.982(a)(1) and (2), do not apply.

Compliance Requirements

§ 63.7185 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the requirements of § 63.7184 at all times, except during periods of startup, shutdown, or 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) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP). Your SSMP must be prepared in accordance with the provisions in § 63.6(e)(3).

(d) You must perform all the items listed in paragraphs (d)(1) through (3) of this section:

(1) Submit the necessary notifications in accordance with § 63.7189.

(2) Submit the necessary reports in accordance with § 63.7190.

(3) Maintain all necessary records you have used to demonstrate compliance with this subpart in accordance with § 63.7191.

§ 63.7186 By what date must I conduct performance tests or other initial compliance demonstrations?

For each process vent or storage tank vent emission limitation in § 63.7184 for which initial compliance is demonstrated by meeting a percent by weight HAP emissions reduction, or a HAP concentration limitation, you must conduct performance tests or an initial compliance demonstration within 180 days after the compliance date that is specified for your source in § 63.7183 and according to the provisions in § 63.7(a)(2).

§ 63.7187 What performance tests and other compliance procedures must I use?

(a) You must conduct each performance test in Table 1 to this subpart that applies to you as specified for process vents in § 63.982(a)(2) and storage tanks in § 63.982(a)(1). Performance tests must be conducted under maximum operating conditions or HAP emissions potential. Section 63.982(a)(1) and (2) only includes methods for the measure of total organic regulated material or total organic carbon (TOC) concentration. The EPA Method 301 is included in Table 1 to this subpart in addition to the test methods contained within § 63.982(a)(1) and (2). The EPA Method 301 must be used for testing regulated material containing inorganic HAP. The EPA Method 320 of 40 CFR part 63, appendix A, must be used to measure total vapor phase organic and inorganic HAP concentrations.

(b) If, without the use of a control device, your process vent stream has a HAP concentration of 20 ppmv or less, or your storage tank vent stream has a HAP concentration of 1 ppmv or less, you must demonstrate that the vent stream is compliant by engineering assessments and calculations or by conducting the applicable performance test requirements specified in Table 1 to this subpart. Your engineering assessments and calculations, as with performance tests (as specified in § 63.982(a)(1) and (2)), must represent your maximum operating conditions or HAP emissions potential and must be approved by the Administrator. You must demonstrate continuous compliance by certifying that your operations will not exceed the maximum operating conditions or HAP emissions potential represented by your engineering assessments, calculations, or performance test.

(c) During periods of startup, shutdown, and malfunction, you must operate in accordance with your SSMP.

(d) For each monitoring system required in this section, you must develop and submit for approval a site-specific monitoring plan that addresses the following three criteria:

(i) 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);

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

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

(e) In your site-specific monitoring plan, you must also address the following three procedural processes:

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

(ii) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

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

(f) You must conduct a performance evaluation of each CMS in accordance with your site-specific monitoring plan.

(g) You must operate and maintain the CMS in continuous operation according to the site-specific monitoring plan.

§ 63.7188 What are my monitoring installation, operation, and maintenance requirements?

If you comply with the emission limitations of § 63.7184 by venting the emissions of your semiconductor process vent through a closed vent system to a control device, you must comply with the requirements of paragraphs (a) and (b) of this section.

(a) You must meet the applicable general monitoring, installation, operation, and maintenance requirements specified in § 63.996.

(b) You must meet the monitoring, installation, operation, and maintenance requirements specified for closed vent systems and applicable control devices in §§ 63.938 through 63.995.

Applications, Notifications, Reports, and Records

§ 63.7189 What applications and notifications must I submit and when?

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

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

(c) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

(d) If you are required to conduct a performance test, 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) If you are required to conduct a performance test or other initial compliance demonstration, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) and according to paragraphs (e)(1) and (2) of this section.

(1) For each initial compliance demonstration that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) For each initial compliance demonstration required that includes a performance test conducted according to the requirements in Table 1 to this subpart, you must submit a notification of the date of the performance evaluation at least 60 days prior to the date the performance evaluation is scheduled to begin as required in § 63.8(e)(2).

§ 63.7190 What reports must I submit and when?

(a) You must submit each of the following reports that apply to you.

(1) *Periodic compliance reports.* You must submit a periodic compliance report that contains the information required under paragraphs (c) through (e) of this section, and any requirements specified to be reported for process vents in § 63.982(a)(2) and storage tanks in § 63.982(a)(1).

(2) *Immediate startup, shutdown, and malfunction report.* You must submit an immediate Startup, Shutdown, and Malfunction Report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP. Your report must contain actions taken during the event. You must submit this report by fax or telephone within 2 working days after starting actions inconsistent with your SSMP. You are required to follow up this report with a report specifying the information in § 63.10(d)(5)(ii) by letter within 7 working days after the end of the event unless you have made alternative arrangements with your permitting authority.

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

(1) The first periodic compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.7183 and ending on June 30 or December 31, whichever date is the first date following the end of the first 12 calendar months after the compliance date that is specified for your source in § 63.7183.

(2) The first periodic compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first 12 calendar months after the compliance date that is specified for your affected source in § 63.7183.

(3) Each subsequent periodic 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 periodic 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 part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent periodic compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The periodic compliance report must contain the information specified in paragraphs (c)(1) through (5) 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 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 and that no CMS was inoperative, inactive, malfunctioning, out-of-control, repaired, or adjusted.

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

(d) For each deviation from an emission limitation that occurs at an affected source where you are not using a CMS to comply with the emission limitations, the periodic compliance report must contain the information in paragraphs (d)(1) through (3) of this section.

(1) The total operating time of each affected source during the reporting period.

(2) Information on the number, duration, and cause of deviations (including unknown cause, if applicable, other than downtime associated with calibration checks).

(3) Information on the number, duration, and cause for monitor downtime incidents (including

unknown cause, if applicable, other than downtime associated with calibration checks).

(e) For each deviation from an emission limitation occurring at an affected source where you are using a CMS to demonstrate compliance with the emission limitation, you must include the information in paragraphs (e)(1) through (8) of this section.

(1) The date and time that each malfunction started and stopped, and the reason it was inoperative.

(2) The date and time that each CMS was inoperative, except for calibration checks.

(3) The date and time that each CMS 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, and the cause of the deviation.

(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 summary of the total duration of CMS downtime during the reporting period, and the total duration of CMS downtime as a percent of the total source operating time during the reporting period.

(7) An identification of each HAP that was monitored at the affected source.

(8) The date of the latest CMS certification or audit.

§ 63.7191 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (3) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Notification of Compliance Status and periodic report of compliance that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunctions.

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

(b) For each CMS, you must keep the records listed in paragraphs (b)(1) through (5) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi).

(2) All required measurements needed to demonstrate compliance with a relevant standard (e.g., 30-minute averages of CMS data, raw performance testing measurements, raw performance evaluation measurements).

(3) All required CMS measurements (including monitoring data recorded during unavoidable CMS breakdowns and out-of-control periods).

(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) Records for process vents according to the requirements specified in § 63.982(a)(2) and storage tank vents according to the requirements specified in § 63.982(a)(1).

§ 63.7192 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 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 offsite for the remaining 3 years.

Other Requirements and Information

§ 63.7193 What parts of the General Provisions apply to me?

Table 2 of this subpart shows which parts of the General Provisions in §§ 63.1 through 63.13 apply to you.

§ 63.7194 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (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 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 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the U.S. EPA Administrator and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are as listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the non-opacity emission limitations in § 63.7184 under § 63.6(g).

(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.

§ 63.7195 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in §§ 63.2 and 63.981, the General Provisions of this part (40 CFR part 63, subpart A), and in this section as follows:

Semiconductor manufacturing means the collection of semiconductor manufacturing process units used to manufacture p-type and n-type semiconductors or active solid state devices from a wafer substrate, including processing from crystal growth through wafer fabrication, and testing and assembly. Examples of semiconductor or related solid state devices include semiconductor diodes, semiconductor stacks, rectifiers, integrated circuits, and transistors.

Semiconductor manufacturing process unit means the collection of equipment used to carry out a discrete operation in the semiconductor manufacturing process. These operations include, but are not limited to, crystal growing; solvent stations used to prepare and clean materials for subsequent processing or for parts cleaning; wet chemical stations used for cleaning (other than solvent cleaning); photoresist application, developing, and stripping; etching; gaseous operation stations used for stripping, cleaning, doping, etching, and layering; separation; encapsulation; and testing. Research and development operations conducted at a semiconductor manufacturing facility are considered to be semiconductor manufacturing process units.

Tables to Subpart BBBBB of Part 63

As stated in § 63.7187, you must comply with the requirements for performance tests in the following table:

TABLE 1 TO SUBPART BBBBB OF PART 63.—REQUIREMENTS FOR PERFORMANCE TESTS

For * * *	You must * * *	Using * * *	According to the following requirements * * *
(1) Process or storage tank vent streams.	a. Select sampling port's location and the number of traverse ports.	Method 1 or 1A of 40 CFR part 60, appendix A.	Sampling sites must be located at the inlet (if emission reduction or destruction efficiency testing is required) and outlet of the control device and prior to any releases to the atmosphere.
	b. Determine velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A.	For HAP reduction efficiency testing only; not necessary for determining compliance with a ppmv concentration limit.
	c. Conduct gas molecular weight analysis.	Method 3, 3A, or 3B of 40 CFR part 60, appendix A.	For flow rate determination only.
	d. Measure moisture content of the stack gas.	Method 4 of 40 CFR part 60, appendix A.	For flow rate determination and correction to dry basis, if necessary.
(2) Process vent stream	a. Measure oxygen concentration.	Method 3A or 3B of 40 CFR part 60, appendix A.	For correcting HAP concentrations measured from combustion control devices to 3 percent O_2.
	b. Measure organic and inorganic HAP concentration (two method option).	Method 18, 25, or 25A of 40 CFR part 60, appendix A.	To determine compliance with the 98 percent reduction limit, conduct simultaneous sampling at inlet and outlet of control device and analyze for same organic and inorganic HAP at both inlet and outlet. If you use Method 25A to determine the TOC concentration for compliance with the 20 ppmv emission limitation, the instrument must be calibrated on methane or the predominant HAP. If you calibrate on the predominant HAP, you must comply with each of the following: • The organic HAP used as the calibration gas must be the single organic HAP representing the largest percent of emissions by volume. • The results are acceptable if the response from the high level calibration.
	c. Measure organic and inorganic HAP simultaneously (“one method” option).	Method 320 of 40 CFR part 63, appendix A.	To determine compliance with 98 percent reduction limit, conduct simultaneous sampling at inlet and outlet of control device and analyze for same organic and inorganic HAP at both inlet and outlet.
(3) Storage tank vent stream	Measure inorganic HAP concentration.	Method 301 of 40 CFR part 63, appendix A.	To determine compliance with 99 percent reduction limit, conduct simultaneous sampling at inlet and outlet of control device and analyze for same inorganic HAP at both inlet and outlet.

As stated in § 63.7193, you must comply with the applicable General Provisions requirements according to the following table:

TABLE 2 TO SUBPART BBBBB OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART BBBBB

Citation	Subject	Applicable to Subpart BBBBB?
§ 63.1	Applicability	Yes.
§ 63.2	Definitions	Yes.
§ 63.3	Units and Abbreviations	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Yes.
§ 63.5	Construction and Reconstruction	Yes.
§ 63.6	Compliance With Standards and Maintenance.	Yes.
§ 63.7	Performance Testing Requirements.	Yes, with the exception of § 63.7(e)(1). The requirements of § 63.7(e)(1) do not apply. Performance testing requirements that apply are specified in this subpart and in § 63.982(a)(1) and (2).
§ 63.8	Monitoring Requirements	Monitoring requirements are specified in this subpart and in § 63.982(a)(1) and (2). The closed vent system inspection requirements of § 63.983(c), as referenced by § 63.982(a)(1) and (2), do not apply.
§ 63.9	Notification Requirements	Yes.

TABLE 2 TO SUBPART BBBBB OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART BBBBB—Continued

Citation	Subject	Applicable to Subpart BBBBB?
§ 63.10	Recordkeeping and Reporting Requirements.	Yes, with the exception of § 63.10(e). The requirements of § 63.10(e) do not apply. In addition, the recordkeeping and reporting requirements specified in this subpart apply.
§ 63.11	Flares	Yes.
§ 63.12	Delegation	Yes.
§ 63.13	Addresses	Yes.
§ 63.14	Incorporation by Reference	Yes.
§ 63.15	Availability of Information	Yes.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 98–204, DA 02–1007]

Revision of Broadcast and Cable EEO Rules and Policies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: In this document, the Media Bureau (Bureau) grants a motion for procedural relief filed by the Minority Media and Telecommunications Council (MMTC). The intended effect is to grant an extension of the reply comments filing deadline.

DATES: Reply comments are due May 29, 2002.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Estella Salvatierra, Media Bureau. (202) 418–1450.

SUPPLEMENTARY INFORMATION:

1. This is a synopsis of the Media Bureau's *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies*, DA 02–1007, released May 1, 2002. On December 21, 2001, the Commission released a *Second Notice of Proposed Rule Making*, MM Docket No. 98–204, 67 FR 1704 (January 14, 2002) (*Second NPRM*) requesting comment on various proposals concerning the Commission's broadcast and cable EEO rules and policies.

2. On April 25, 2002, MMTC filed a Motion for Extension of Reply Comment Deadline requesting an extension of time for the filing date for reply comments.

3. MMTC requests that the Commission extend the reply comment deadline from May 15, 2002, to May 29, 2002. Because the Bureau believes that the public interest would be served by an extension of the reply comment period in this proceeding, we grant MMTC's request and extend the date for filing reply comments to May 29, 2002.

4. *Accordingly, it is ordered* that the Motion for Extension of Reply Comment Deadline filed by MMTC is granted.

5. *It is therefore ordered* that the date for filing reply comments in this proceeding *is extended* to May 29, 2002.

6. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303(r), and §§ 0.204(b), 0.283 and 1.46 of the Commission's rules, 47 CFR 0.204(b), 0.283 and 1.46.

Federal Communications Commission.

W. Kenneth Ferree,

Chief, Media Bureau.

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