TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/Subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.1020	
*	*	*	*	*	*	*
155	Portable Fuel Container Spillage Control.	6/3/04	2/7/05	[Insert *FR* citation from published date].	(c)(53)	All of Chapter 155 is approved with the exception of the word ''or'' in Subsection 7C which Maine did not submit as part of the SIP revision.
*	*	*	*	*	*	*

Note.—1. The regulations are effective statewide unless stated otherwise in comments section.

[FR Doc. 05–2060 Filed 2–4–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2003–0194; FRL–7869–7]

RIN 2060–AL89

National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action on amendments to the national emission standards for hazardous air pollutants (NESHAP) for leather finishing operations, which were issued on February 27, 2002, under section 112 of the Clean Air Act (CAA). The direct final amendments clarify the frequency for categorizing leather product process types, modify the definition of ''specialty leather,'' add a definition for ''vacuum mulling,'' and add an alternative procedure for determining the actual monthly solvent loss from an affected source. We are issuing the amendments as a direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no significant adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the national emission standards for leather finishing operations if significant adverse comments are filed.

DATES: The direct final rule is effective on February 28, 2005 without further notice, unless EPA receives adverse written comment by February 17, 2005 or by February 22, 2005 if a public hearing is requested. If significant adverse comments are received, EPA will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective, and which provisions are being withdrawn due to adverse comment.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2003–0194, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Agency Web site: *http://www.epa.gov/edocket*. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: air-and-r-docket@epa.gov.
- Fax: (202) 566–1741.
- Mail: EPA Docket Center, EPA, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible.
- Hand Delivery: Air and Radiation Docket, EPA, 1301 Constitution Avenue, NW., Room B–108, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. OAR–2003–0194. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov websites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hardcopy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. William Schrock, Organic Chemicals Group, Emission Standards Division (C504–04), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5032; facsimile number (919) 541–3470; electronic mail (e-mail) address: *schrock.bill@epa.gov*.

SUPPLEMENTARY INFORMATION: Since these rule amendments do not add substantive requirements and ease certain compliance obligations, EPA finds that there is good cause to make the rule amendments immediately effective upon the close of the comment period, within the meaning of 5 U.S.C. section 553(d).

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

Category	NAICS * code	Examples of regulated entities
Industry	3161	Leather finishing operations.
	31611	Leather finishing operations.
	316110	Leather finishing operations.
Federal government	.....	Not affected.
State/local/tribal government	.....	Not affected.

* North American Industrial Classification System.

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 carefully examine the applicability criteria in 40 CFR 63.5285. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

Comments. We are publishing the direct final rule amendments without prior proposal because we view the amendments as noncontroversial and do not anticipate significant adverse comments. However, in the Proposed Rules section of this **Federal Register** notice, we are publishing a separate document that will serve as the proposal to amend the national emission standards for leather finishing operations if significant adverse comments are filed. If we receive any significant adverse comments on one or more distinct amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective, and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule, should the Agency determine to issue one. Any of the distinct amendments in today's direct final rule for which we do not receive significant adverse comment will become effective on the previously mentioned date. We will not institute a second comment period on the direct final rule amendments. Any parties interested in commenting must do so at this time.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by February 28, 2005. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule amendments which was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule amendments may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading the preamble to the direct final rule amendments.

I. Background

The EPA promulgated NESHAP for leather finishing operations on February 27, 2002 (67 FR 9156). The final rule (40 CFR part 63, subpart TTTT) includes standards for hazardous air pollutants (HAP), as well as monitoring, performance testing, recordkeeping, and reporting requirements related to those standards. Today's action includes direct final rule amendments to clarify the frequency for categorizing leather product process types, modify the definition of ''specialty leather,'' add a definition for ''vacuum mulling,'' and add an alternative procedure for determining the actual monthly solvent loss from an affected source.

A. Frequency of Testing for Product Process Type Categorization

We noticed that the promulgated standards were silent regarding how often an affected source will perform appropriate testing to properly categorize each finish application in one of four leather product process operations: (1) Upholstery operations with less than four grams of finish add-ons, (2) upholstery operations with four grams or more of finish add-ons, (3) water-resistant/specialty, and (4) nonwater-resistant. In the final rule, to determine whether a leather finish application is categorized as ''water-resistant'' or ''nonwater-resistant,'' you must use the Maeser Flexes test method on finished leather samples according to

American Society for Testing and Materials (ASTM) Designation D2099–00, or use an alternative testing method approved by the Administrator (40 CFR 63.5345–63.5350). We are amending the final rule to clarify that once you have determined that a unique finish application corresponds to one of the four product process operations, the applied finish categorization can remain valid for up to 5 years, provided there are no changes in the applied finish chemical characteristics. However, if the chemical characteristics of the applied finish change, or if you operate for 5 years with an unchanged applied finish formula, you must re-categorize the applied finish using appropriate testing procedures to document the leather product process operation to which the applied finish will correspond. Thus, once a leather finish application has been categorized through proper documentation, you will need to renew the categorization every 5 years or when the applied finish chemical characteristics change, whichever occurs sooner.

B. Revised Specialty Leather Definition

The definition of specialty leather in the final rule states that it is a select grade of chrome tanned, bark retanned, or fat liquored leather that is retanned through the application of greases, waxes, and oils in quantities greater than 25 percent of the dry leather weight. The specialty leather definition was added to the final rule after commenters to the proposed rule noted that leather that has been retanned with greater than 25 percent greases, fats, and oils requires finishing with coatings that contain more solvents and, therefore, more HAP to achieve proper adhesion of the finish to the leather and produce the color and textures the market demands.

While the definition in the final rule appeared to cover all the specialty leather produced at the time, one leather finishing company (Horween Leather Company) raised the issue that they finish leather that should meet the definition of ''specialty'' based on the amount of solvent they are required to use in the coatings. These products, however, did not meet the definition of specialty leather in the final rule. In fact, in order to produce some high-quality dress or performance shoe leathers, higher solvent-based finishes are required to provide the rich color, luster, or an oily/tacky feel demanded by the market. These leathers are produced by retanning with oils, fat, and greases of less than 25 percent which does not qualify them for the specialty leather category.

In a letter sent via a facsimile on December 3, 2002, Horween Leather provided EPA with technical information relating to the solvent content of the coatings required for their proposed specialty leather products and the oil, fat, and grease content of the retanned leather. This information clearly showed that higher solvent coatings were required to achieve satisfactory product qualities down to some oil, fat, and grease content of approximately 12 percent. EPA discussed this information with representatives of Horween, as well as with coatings experts for the leather industry, to determine whether alternatives for the higher solvent coatings could be used with lower oil, fat, and grease content leather and achieve the same results. After considering these discussions and reviewing the data, EPA determined that the only means of producing this leather with the lower fat, oil, and grease content and achieving the same results is by revising the specialty leather definition.

The revised specialty leather definition in the direct final rule amendments lowers the minimum percentage of applied grease, waxes, and oil used for retanning the leather to greater than 12 percent of the dry leather weight. This revision enables leather finishers to use the higher solvent coatings required to achieve the desired results since no other options exist. The Agency estimates that this change in definition will only affect one or two facilities that produce this specialty leather and will enable them to meet market demand for products with a lower fat, oil, and grease content. The fraction of leather produced at these facilities that will be affected by this change is estimated to be approximately 3 percent of their total amount of leather finished in a year. This change will therefore have the effect of moving this quantity of leather from the non-water resistant leather category with an emission limit of 3.7 pounds of HAP loss per 1,000 square feet of leather finished to the water resistant/specialty leather category with an emission limit of 5.6 pounds of HAP loss per 1,000 square feet of leather finished.

In addition to lowering the percentage of oil, fat, and grease, we are revising the specialty leather definition to also include high-quality dress or performance shoe leather that can withstand one or both of the following visual tests: Moisture injection into the leather using vacuum mulling without signs of blistering, or prolonged ironing at 200 °F for smoothing out surface roughness without finish lift off. As noted above, one of the reasons for using higher solvent coatings was to achieve a higher level of adhesion. Vacuum mulling and prolonged ironing are used as an indicator of coating adhesion to the leather substrate and are, therefore, being incorporated into the definition. Incorporating these criteria into a revised specialty leather definition allows for these mostly low-production quantities of high-quality dress or performance shoe leathers to be appropriately categorized as ''specialty leather'' products.

C. Alternative Procedure for Determining Actual Solvent Loss

After promulgation of the final rule, we received several comment letters on behalf of the trade organization, Leather Industries of America (LIA), and two leather finishing companies (Prime Tanning Company and S.B. Foot Tanning Company). The primary issue centered on the potential recordkeeping burden of a finish inventory log to determine the actual monthly solvent loss from an affected source. As stated in the final rule, each source must record the pounds of each type of finish applied for each leather product process operation and the mass fraction of HAP in each applied finish. The basis for this type of recordkeeping was that each source knew the chemical composition of each applied finish and was capable of measuring the amount of finish as applied to each leather product; thus, a ''measure-as-you-directly-apply'' approach appears generally reasonable.

Two leather finishing companies indicated that current company practices determine actual monthly solvent loss through mass balance calculations based on a detailed inventory of stored chemicals, at the beginning- and end-of-each month, and business purchasing records to indicate additions to the inventory of chemical supplies. Thus, the net loss of finishing solvents is determined by subtracting the end-of-the month chemical inventory from the beginning-of-the-month chemical inventory and adding the quantities of all chemicals purchased during the same 1-month period. Typically, a unique finish application is prepared by removing known quantities of chemicals from a storage location, and the unique finish is formulated in a separate location, commonly referred to as a mixing room. In situations when an excess amount of finish is formulated, the companies indicated that the excess amount is generally accounted for in the mass balance procedures as consumed by the process (*i.e.*, fugitive solvent loss). This assumption is often taken as a

simplifying step which results in a conservative and slightly overestimated measure of the solvent loss. Excess finish may eventually be used in other finish applications; thus, its use and consumption by the process may not be immediate. Nonetheless, the excess amount is immediately accounted for as a solvent loss.

In other situations, the companies indicated they may choose to dispose of the excess finish and make an appropriate adjustment in their corresponding mass balance calculations. If the disposed quantities of finish are small, the companies may choose to record the disposed quantity in the mass balance as consumed by the process (*i.e.*, fugitive solvent loss). Again, this assumption is a simplifying step which results in a conservative and slightly overestimated measure of the solvent loss. However, the companies may choose to record the quantity as disposed and remove the quantity from the mass balance, so it is neither listed as released to the air nor is the quantity of solvent listed as remaining in the inventory.

The two companies indicated it would cause an extreme labor and cost burden to change and implement a ''measure-as-you-directly-apply'' approach. Furthermore, they stated that their current ''mass balance'' approach is just as accurate in determining actual monthly solvent losses as the ''measure-as-you-directly-apply'' approach. Both of these leather finishing companies provided sufficient supporting documentation that their current solvent measurement procedures are capable of accurately determining the quantity of solvent finishes used each month and determining the mass fraction of HAP in the consumed solvent finishes.

Therefore, in today's action, we are allowing a monthly chemical inventory mass balance as an alternative procedure in 40 CFR 63.5335(b) for determining actual monthly HAP loss from an affected source. A monthly chemical inventory mass balance is appropriate, as long as the source follows its detailed mass balance procedures and calculations in its plan for demonstrating compliance, in accordance with 40 CFR 63.5325. Regardless of which approach is used to determine finish loss, each source is still required to maintain a written or printed log that documents the total quantity of solvents/finishes used each month in the process and the mass fraction of HAP in each solvent/finish.

II. Amendments to 40 CFR Part 63, Subpart TTTT

Today's action includes amendments that add an alternative procedure for determining the actual monthly solvent loss from an affected source, clarify the frequency in which leather product process types must be categorized, modify the definition of ''specialty leather,'' and add a definition for ''vacuum mulling.''

Section 63.5335 of 40 CFR part 63 is amended by adding a new alternative requirement for maintaining a finish application log based on a detailed chemical inventory mass balance. This was accomplished by splitting paragraph (b) into two subparagraphs to list the two acceptable methodologies for determining actual monthly solvent loss from an affected source. The revised paragraph (b)(1) includes the previous requirements for maintaining a log of finish types as they are applied to a leather product process. Previously, these requirements were listed in paragraphs (b)(1) through (7) of § 63.5335. However, the requirements have been redesignated, without any further changes, as paragraphs (b)(1)(i) through (vii). Paragraph (b)(2) of § 63.5335 includes the new alternative requirements for maintaining a finish application log based on a detailed chemical inventory mass balance.

Section 63.5345 is amended by adding paragraph (d) to clarify the frequency for the two types of upholstery product process operations which must be categorized.

Section 63.5350 is amended by clarifying the frequency for water-resistant and nonwater-resistant product process operations which must be categorized, incorporating the revised definition of specialty leather, and by providing alternative visual test criteria to support the categorization of high-quality dress or performance shoe leather as specialty leather. We have also clarified the frequency for categorizing specialty leather product process operations.

Section 63.5460 is amended by revising the definition for the term specialty leather and adding a definition for the term vacuum mulling.

III. Statutory and Executive Order Review

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the 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 direct final rule amendments are not a ''significant regulatory action'' under the terms of Executive Order 12866 and are, therefore, not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action modifies a definition and adds a new definition to the final standards. It also adds an alternative option for determining HAP loss from the process. Since this action only clarifies the existing standards and adds an option, this action will not increase the information collection burden. The OMB has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0478 (EPA ICR No. 1985.02).

Copies of the Information Collection Request (ICR) document(s) may be obtained from Susan Auby, by mail at the Office of Environmental Information, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, by email at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*. Include the ICR number in any correspondence.

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.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the direct final rule amendments.

For purposes of assessing the impact of today's direct final rule amendments on small entities, small entities are defined as: (1) A small business that has fewer than 750 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.

After considering the economic impacts of today's direct final rule amendments on small entities, the EPA has concluded that this action will not have a significant impact on a substantial number of small entities. The direct final rule amendments will not impose any new requirements on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the direct final rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The direct final rule amendments apply only to affected sources in the leather finishing industry and clarify the frequency for categorizing leather product process types, modify the definition of ''specialty leather,'' add a definition for ''vacuum mulling,'' and add an alternative procedure for determining the actual monthly solvent loss from an affected source and, therefore, impose no additional burden on sources. Therefore, the direct final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132, Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires the 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'' are defined in the Executive Order to include regulations that has ''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.''

The direct final rule amendments do not have federalism implications. They 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. The direct final rule amendments apply only to affected sources in the leather finishing industry and clarify the frequency for categorizing leather product process types, modify the definition of ''specialty leather,'' add a definition for ''vacuum mulling,'' and add an alternative procedure for determining the actual monthly solvent loss from an affected source and, therefore, impose no additional burden on sources. Thus, Executive Order 13132 does not apply to the direct final rule amendments.

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

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires the 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.'' The direct final rule amendments do not have tribal implications, as specified in Executive Order 13175. The direct final rule amendments apply only to affected sources in the leather finishing industry and clarify the frequency for categorizing leather product process types, modify the definition of ''specialty leather,'' add a definition for ''vacuum mulling,'' and add an alternative procedure for determining the actual monthly solvent loss from an affected source and, therefore, impose no additional burden on sources. Thus, Executive Order 13175 does not apply to the direct final rule amendments.

The EPA specifically solicits additional comment on the direct final rule amendments from tribal officials.

G. 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 and

environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today's direct final rule amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the direct final rule amendments have been determined not to be ''economically significant'' as defined under Executive Order 12866.

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

The direct final rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995

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

No new standard requirements are cited in the direct final rule amendments. Therefore, the EPA is not proposing or adopting any voluntary consensus standards in the direct final rule amendments.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the direct final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the direct final rule in the **Federal Register**. The direct final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: February 1, 2005.

Stephen L. Johnson,

Acting Administrator.

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

PART 63—[AMENDED]

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

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

Subpart TTTT—[AMENDED]

■ 2. Section 63.5335(b) is revised to read as follows:

§ 63.5335 How do I determine the actual HAP loss?

* * * * *

(b) Use one of the procedures listed in either paragraph (b)(1) or (b)(2) of this section for determining the actual HAP loss from your affected sources. Regardless of which procedure is used to determine HAP loss, each source is still required to maintain a written or printed log that documents the total quantity of solvents/finishes used each month in the process and the mass fraction of HAP in each solvent/finish.

(1) *Measure Finish as Applied.* Use a finish inventory log to record the pounds of each type of finish applied for each leather product process operation and the mass fraction of HAP in each applied finish. Figure 1 of this subpart shows an example log for recording the minimum information necessary to determine your finish usage and HAP loss. The finish inventory log must contain, at a minimum, the information for each type of finish applied listed in paragraphs (b)(1)(i) through (vii) of this section:

(i) Finish type;

(ii) Pounds (or density and volume) of each finish applied to the leather;

(iii) Mass fraction of HAP in each applied finish;

(iv) Date of the recorded entry;

(v) Time of the recorded entry;

(vi) Name of the person recording the entry;

(vii) Product process operation type.

(2) *Chemical Inventory Mass Balance.* Determine the actual monthly HAP loss from your affected source through mass balance calculations. You must follow your detailed mass balance procedures and calculations in your plan for demonstrating compliance in accordance with § 63.5325. The HAP mass balance must be based on a detailed inventory of stored chemicals at the beginning and end of each month, and business purchasing records to indicate additions to the inventory of chemical supplies. The net loss of chemicals used for finish applications is determined by subtracting the end of the month chemical inventory from the beginning of the month chemical inventory and adding the quantities of all chemicals purchased during the same 1-month period. In situations when an excess amount of finish is formulated, you must have documented procedures on how the excess amount is accounted for in the mass balance.

* * * * *

■ 3. Section 63.5345 is amended by adding paragraph (d) to read as follows:

§ 63.5345 How do I distinguish between the two upholstery product process operations?

* * * * *

(d) For each leather product with a unique finish application, you must maintain records to support how the leather product was categorized to a product process operations type. You must repeat the leather product categorization to a product process operation type no less frequently than once every 5 years if the applied finish chemical characteristics of the leather product have not changed, or when the applied finish chemical characteristics of the leather product change, whichever is sooner.

■ 4. Section 63.5350 is amended as follows:

■ a. adding paragraph (b)(3),

■ b. revising paragraphs (c) introductory text and (c)(2), and

■ c. adding paragraphs (c)(3) and (c)(4).

§ 63.5350 How do I distinguish between the water-resistant/specialty and nonwater-resistant leather product process operations?

* * * * *

(b) * * *

(3) For each leather product with a unique finish application, you must maintain records to support how the leather product was categorized to a product process operations type. You must repeat the leather product categorization to a product process operation type no less frequently than once every 5 years if the applied finish chemical characteristics of the leather product have not changed, or when the applied finish chemical characteristics of the leather product do change, whichever is sooner.

(c) To determine whether your product process operation produces specialty leather, you must meet the criteria in paragraphs (c)(1) and (2), or (c)(3) of this section:

* * * * *

(2) The leather must be retanned through the application of grease, waxes, and oil in quantities greater than 12 percent of the dry leather weight. Specialty leather is also finished with higher solvent-based finishes that provide rich color, luster, or an oily/tacky feel. Specialty leather products may include, but are not limited to, specialty shoe leather and top grade football leathers.

(3) The leather must be a high-quality dress or performance shoe leather that can withstand one of the visual tests in paragraph (c)(3)(i) or (ii) of this section:

(i) Moisture injection into the leather using vacuum mulling without signs of blistering.

(ii) Prolonged ironing at 200° F for smoothing out surface roughness without finish lift off.

(4) For each leather product with a unique finish application, you must maintain records to support how the leather product was categorized to a product process operations type. You must repeat the leather product categorization to a product process operation type no less frequently than once every 5 years if the applied finish chemical characteristics of the leather product have not changed, or when the applied finish chemical characteristics of the leather product do change, whichever is sooner.

■ 5. Section 63.5460 is amended by revising the definition for the term ''Specialty leather'', and adding, in alphabetical order, a definition for the term ''Vacuum mulling'' to read as follows:

§ 63.5460 What definitions apply to this subpart?

* * * * *

Specialty leather means a select grade of chrome tanned, bark retanned, or fat liquored leather that is retanned through the application of grease, waxes, and oil in quantities greater than 12 percent of the dry leather weight or high-quality dress or performance shoe leather that can withstand one or more of the following visual tests: moisture injection into the leather using vacuum mulling without signs of blistering, or prolonged ironing at 200° F for smoothing out surface roughness without finish lift off. Specialty leather is also finished with higher solvent-based finishes that provide rich color, luster, or an oily/tacky feel. Specialty leather products are generally low volume, high-quality leather, such as specialty shoe leather and top grade football leathers.

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Vacuum mulling means the injection of water into the leather substrate using a vacuum process to increase the moisture content of the leather.

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[FR Doc. 05–2303 Filed 2–4–05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[WA–04–005; FRL–7866–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Washington; Yakima County Nonattainment Area Boundary Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is taking final action to correct an error in the initial delineation of the boundary of the Yakima County nonattainment area (Yakima NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). This correction revises the boundary of the Yakima NAA to exclude a small portion that lies within the exterior boundary of the Yakama Indian Reservation. The excluded area will revert to an unclassifiable designation, consistent with the original and current designation of the Yakama Indian Reservation.

EFFECTIVE DATE: This rule is effective on March 9, 2005.

ADDRESSES: EPA has established a docket for this action under Docket ID No. WA–04–005. Publicly available docket materials are available in hard copy at EPA Region 10, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Seattle, Washington 98101. This Docket facility is open from 8:30–4, Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Gina Bonifacino, Office of Air, Waste and Toxics (OAWT–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–2970, or e-mail address: bonifacino.gina@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us'' or ''our'' is used, we mean EPA. Information is organized as follows:

Table of Contents

I. Background

On November 29, 2004, EPA solicited public comment on a proposal to correct the boundary of the Yakima County nonattainment area (Yakima NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10) by excluding approximately six square miles of Yakama Indian Reservation land. Section 107(d)(4)(B) of the Clean Air Act (CAA or the Act) sets out the general process by which areas were to be designated nonattainment for the national ambient air quality standards (NAAQS) for PM–10 upon enactment of the 1990 Clean Air Act amendments. The Act states that each area that had been identified by EPA as a PM–10 Group I area [1] prior to the 1990 CAA Amendments is designated nonattainment for PM–10 by operation of the law upon enactment of the 1990 CAA Amendments. Prior to enactment of the 1990 CAA amendments, EPA published technical corrections clarifying the boundaries of concern for some of the areas previously identified as Groups I and II areas. See 55 FR 45799. October 31, 1990. With this action, the Yakima County Group I area was revised to correspond to a rectangular study area that encompassed

[1] Group I areas were areas that, at the time the particulate matter indicator was changed from total suspended particulate (TSP) to PM–10, were estimated to have a high probability of exceeding the PM–10 NAAQS.