



# Federal Register

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## Part IV

# Environmental Protection Agency

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40 CFR Part 63

**National Emission Standards for  
Hazardous Air Pollutants for Area  
Sources: Acrylic and Modacrylic Fibers  
Production, Carbon Black Production,  
Chemical Manufacturing: Chromium  
Compounds, Flexible Polyurethane Foam  
Production and Fabrication, Lead Acid  
Battery Manufacturing, and Wood  
Preserving; Proposed Rule**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[EPA-HQ-OAR-2006-0897; FRL-8293-2]

RIN 2060-AN44

**National Emission Standards for Hazardous Air Pollutants for Area Sources: Acrylic and Modacrylic Fibers Production, Carbon Black Production, Chemical Manufacturing: Chromium Compounds, Flexible Polyurethane Foam Production and Fabrication, Lead Acid Battery Manufacturing, and Wood Preserving**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA is proposing six national emissions standards for hazardous air pollutants for seven area source categories. The proposed emissions standards and associated requirements for two area source categories (Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication) are combined in one subpart. The proposed emissions standards for new and existing sources are based on EPA's proposed determination as to what constitutes the generally available control technology or management practices for each area source category.

**DATES:** Comments must be received on or before May 4, 2007, unless a public hearing is requested by April 16, 2007. If a hearing is requested on the proposed rules, written comments must be received by May 21, 2007. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by OMB on or before May 4, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2006-0897 by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- *Fax*: (202) 566-1741.
- *Mail*: National Emission Standards for Hazardous Air Pollutants for Area Sources: Acrylic and Modacrylic Fibers Production, Carbon Black Production, Chemical Manufacturing: Chromium

Compounds, Flexible Polyurethane Foam Production and Fabrication, Lead Acid Battery Manufacturing, and Wood Preserving Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

• *Hand Delivery*: EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., 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.

**Note:** The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at <http://www.epa.gov/epahome/dockets.htm> for current information on docket operations, locations and telephone numbers.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2006-0897. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, 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 *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, 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 *www.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.

**Docket:** All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the National Emission Standards for Hazardous Air Pollutants for Area Sources: Acrylic and Modacrylic Fibers Production, Carbon Black Production, Chemical Manufacturing: Chromium Compounds, Flexible Polyurethane Foam Production and Fabrication, Lead Acid Battery Manufacturing, and Wood Preserving Docket, EPA/DC, EPA West, Room 3334, 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:** Ms. Sharon Nizich, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-2825; fax number: (919) 541-3207; e-mail address: [nizich.sharon@epa.gov](mailto:nizich.sharon@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this action apply to me?*

The regulated categories and entities potentially affected by the proposed standards include:

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Industry: Acrylic and modacrylic fibers production.	325222	Area source facilities that manufacture polymeric organic fibers using acrylonitrile as a primary monomer.

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Carbon black production .....	325182	Area source facilities that manufacture carbon black using the furnace, thermal, or acetylene decomposition process.
Chemical manufacturing: chromium compounds.	325188	Area source facilities that produce chromium compounds, principally sodium dichromate, chromic acid, and chromic oxide, from chromite ore.
Flexible polyurethane foam production.	326150	Area source facilities that manufacture foam made from a polyurethane polymer.
Flexible polyurethane foam fabrication operations.	326150	Area source facilities that cut or bond flexible polyurethane foam pieces together or to other substrates.
Lead acid battery manufacturing .....	335911	Area source facilities that manufacture lead acid storage batteries made from lead alloy ingots and lead oxide.
Wood preserving .....	321114	Area source facilities that treat wood such as lumber, ties, poles, posts, or pilings with a preservative.

<sup>1</sup> North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in 40 CFR 63.11393 of subpart LLLLLL (NESHAP for Acrylic and Modacrylic Fibers Production Area Sources), 40 CFR 63.11400 of subpart MMMMMM (NESHAP for Carbon Black Production Area Sources), 40 CFR 63.11407 of subpart NNNNNN (NESHAP for Chemical Manufacturing Area Sources: Chromium Compounds), 40 CFR 63.11414 of subpart OOOOOO (NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources), 40 CFR 63.11421 of subpart PPPPPP (NESHAP for Lead Acid Battery Manufacturing Area Sources), or 40 CFR 63.11428 of subpart QQQQQQ (NESHAP for Wood Preserving Area Sources). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

*B. What should I consider as I prepare my comments to EPA?*

Do not submit information containing CBI to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID EPA-HQ-OAR-2006-0897. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific

information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

*C. Where can I get a copy of this document?*

In addition to being available in the docket, an electronic copy of this proposed action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this proposed action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

*D. When would a public hearing occur?*

If anyone contacts EPA requesting to speak at a public hearing concerning the proposed rules by April 16, 2007, we will hold a public hearing on April 19, 2007. If you are interested in attending the public hearing, contact Ms. Pamela Garrett at (919) 541-7966 to verify that a hearing will be held.

*E. How is this document organized?*

The supplementary information presented in this preamble is organized as follows:

- I. General Information
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  - B. What should I consider as I prepare my comments to EPA?
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- B. What are the production processes and emissions points at facilities that manufacture acrylic and modacrylic fibers?
- C. What are the proposed requirements for area sources?
- D. What is our rationale for selecting the proposed standards for area sources?

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- A. What area source category is affected by the proposed NESHAP?
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- A. What area source category is affected by the proposed NESHAP?
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- A. What area source categories are affected by the proposed NESHAP?
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- C. What are the proposed requirements for area sources?
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VII. Proposed Area Source NESHAP for Lead Acid Battery Manufacturing

- A. What area source category is affected by the proposed NESHAP?
- B. What are the production processes and emissions points at facilities that manufacture lead acid batteries?
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  - B. What are the production processes and emissions points at wood preserving facilities?
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- IX. Proposed Exemption of Certain Area Source Categories From Title V Permitting Requirements
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  - G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
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## II. Background Information for Proposed Area Source Standards

Section 112(k)(3)(B) of the Clean Air Act (CAA) requires EPA to identify at least 30 hazardous air pollutants (HAP) that pose the greatest potential health threat in urban areas, and section 112(c)(3) requires EPA to regulate the area source<sup>1</sup> categories that represent 90 percent of the emissions of the 30 "listed" HAP ("urban HAP"). We implemented these listing requirements through the Integrated Urban Air Toxics Strategy (64 FR 38715, July 19, 1999).<sup>2</sup> Sierra Club sued EPA, alleging a failure to complete standards for the source categories listed pursuant to CAA section 112(c)(3) within the timeframe specified by the statute. See *Sierra Club v. Johnston*, No. 01-1537, (D.D.C.). On March 31, 2006, the court issued an order requiring EPA to promulgate standards under CAA section 112(d) for those area source categories listed pursuant to CAA section 112(c)(3).

Among other things, the order requires that, by June 15, 2007, EPA

complete standards for six area source categories. We have selected seven area source categories to meet this obligation even though standards are required for only six area source categories. The seven area source categories that we have selected to meet this obligation are: (1) Acrylic and Modacrylic Fibers Production; (2) Carbon Black Production; (3) Chemical Manufacturing: Chromium Compounds; (4) Flexible Polyurethane Foam Production; (5) Flexible Polyurethane Foam Fabrication Operations; (6) Lead Acid Battery Manufacturing; and (7) Wood Preserving.

We listed Flexible Polyurethane Foam Fabrication Operations as an area source category under CAA section 112(c)(3) as part of the 1999 Integrated Urban Strategy (64 FR 38721, July 19, 1999). On June 26, 2002, we amended the area source category list by adding source categories, including Acrylic and Modacrylic Fibers Production, Flexible Polyurethane Foam Production, Lead Acid Battery Manufacturing, and Wood Preserving (67 FR 43112, 43113). On November 22, 2002, we added Carbon Black Production and Chemical Manufacturing: Chromium Compounds to the area source category list (67 FR 70427, 70428).

The inclusion of each of these source categories on the section 112(c)(3) area source category list is based on 1990 emissions data, as EPA used 1990 as the baseline year for that listing. The Acrylic and Modacrylic Fibers area source category listing was based on emissions of the HAP acrylonitrile (AN). Emissions of chromium were the basis for the listing of the Chemical Manufacturing: Chromium Compounds source category. The Lead Acid Battery Manufacturing area source category listing was based on emissions of lead and cadmium. The listing of Carbon Black Production was based on HAP emissions of polycyclic organic matter (POM). The listings of Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication Operations were based on HAP emissions of methylene chloride, and the listing of Wood Preserving was based on HAP emissions of arsenic, chromium, methylene chloride, and dioxin.

Under CAA section 112(d)(5), the Administrator may, in lieu of standards requiring maximum achievable control technology (MACT) under section 112(d)(2), elect to promulgate standards or requirements for area sources "which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air

pollutants." Under section 112(d)(5), the Administrator has the discretion to use generally available control technology or management practices (GACT) in lieu of MACT. Pursuant to section 112(d)(5), we have decided not to issue MACT standards and concluded that GACT is appropriate for these seven source categories.

Legislative history describes GACT as standards or requirements reflecting application of generally available control technology or management practices, that is, "methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems" (Senate Report Number 101-228, December 20, 1989). Consistent with the legislative history, in addition to considering technical capabilities of the facilities and the availability of control measures, we may consider costs and economic impacts in determining GACT, which is particularly important when developing regulations for source categories that may have few establishments and many small businesses, or when determining whether additional control is necessary for sources with emissions that are already well controlled as a result of other existing or applicable standards.

Determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category. We also consider the standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. In appropriate circumstances, we may also consider technologies and practices at area and major sources in similar categories to determine whether such technologies and practices could be considered generally available for the area source category at issue. Finally, as noted above, in determining GACT for a particular area source category, we consider the costs and economic impacts of available control technologies and management practices on that category.

Existing facilities in the area source categories at issue in this proposal are currently well controlled as a result of State and national standards and permitting requirements for criteria pollutants that obtain co-control of HAP. There is only one area source plant in the U.S. in the Acrylic and Modacrylic Fibers Production area

<sup>1</sup> An area source is a stationary source of HAP emissions that is not a major source. A major source is a stationary source that emits or has the potential to emit 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

<sup>2</sup> Since its publication in the Integrated Urban Air Toxics Strategy in 1999, the area source category list has undergone several amendments.

source category, and this plant is currently subject to State permit requirements. The two area source plants that manufacture chromium compounds and the one area source plant in the Carbon Black Production area source category are well controlled as a result of title V permit requirements for the control of criteria pollutants, which provide co-control of urban HAP. We believe that all of the 58 area source plants in the Lead Acid Battery Manufacturing area source category can achieve the requirements of the new source performance standard (NSPS) for lead-acid battery manufacturing plants at 40 CFR part 60, subpart KK. Facilities constructed, reconstructed, or modified after 1982 are already subject to the NSPS.

There are hundreds of facilities in the Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories, which were listed because of the use of methylene chloride. The vast majority of these facilities no longer use methylene chloride in the processes for several reasons, including State air emissions standards and worker exposure limits established by the Occupational Safety and Health Administration (OSHA).

There are approximately 400 area source facilities in the wood preserving area source category. All of these facilities are well controlled in terms of metal HAP (i.e., chromium and arsenic) emissions and dioxin emissions. These facilities have also discontinued the use of methylene chloride.

### III. Proposed Area Source NESHAP for Acrylic and Modacrylic Fibers Production

#### A. What area source category is affected by the proposed NESHAP?

The Acrylic and Modacrylic Fibers Production area source category consists of facilities engaged in the manufacture of synthetic fibers made from AN. Acrylic fibers are synthetic fibers in which the fiber-forming substance is any long-chain synthetic polymer composed of at least 85 percent by weight of AN. Modacrylic fibers are composed of 35 to 85 percent by weight of AN.

There are currently four plants in the U.S. that are known to produce acrylic and modacrylic fibers. Three of these plants are major sources. The fourth plant is an area source and is located in an urban area (Decatur, Alabama). The area source plant produces polyacrylonitrile that is primarily used as a feed stock for the production of carbon fibers.

#### B. What are the production processes and emissions points at facilities that manufacture acrylic and modacrylic fibers?

Acrylonitrile is the only urban HAP that was reported to be released during the production of acrylic and modacrylic fibers at the one known existing area source plant. The AN is fed to a polymerization reactor where the reaction (polymerization) takes place. The area source plant uses a suspension process in which insoluble beads of polymer are formed in the reactor. Residual unreacted AN is removed from the polymer in a monomer recovery column and is recycled to the process. After removal of the residual AN, the resulting polymer is spun into fibers. Fibers are formed by forcing the viscous polymer solution, referred to as "dope," through the small orifices of a spinnerette and immediately solidifying or precipitating the resulting filaments.

At the area source plant, two 100,000 gallon storage tanks that receive the purchased AN monomer are controlled by internal floating roofs and are subject to the NSPS for volatile organic liquids (40 CFR part 60, subpart Kb). A packed column scrubber controls emissions from the polymerization process equipment, including storage tanks, recovered monomer tanks, monomer measuring tanks, monomer preparation tanks, monomer feed tanks, slurry receiver tanks, polymerization reactors, and drum filters. A second packed column scrubber controls emissions from the monomer recovery process, including polymer holding tanks, polymer buffer tanks, the monomer vacuum pump flush drum, and the drum filter vacuum pump flush drum.

Many of the pumps which move AN at this facility are canned motor pumps, which have no shaft protrusion to seal. The common leak point on other types of pumps is the seal for the shaft protrusion; consequently, canned motor pumps by design reduce leakage. Most of the piping is connected by welding rather than flanges, which reduces emissions from pipe connectors.

#### C. What are the proposed requirements for area sources?

##### 1. Applicability and Compliance Dates

These proposed NESHAP apply to any existing or new acrylic or modacrylic fibers production plant that is an area source. We are proposing that owners or operators of existing sources comply with all the requirements of the area source NESHAP by 6 months after the date of publication of the final rule in the **Federal Register**. A new affected source would be required to comply by

the date of publication of the final rule in the **Federal Register** or upon initial startup, whichever is later.

##### 2. Proposed Emissions Standards

*Existing sources.* The proposed standards for existing area sources apply to process vents from the polymerization process, process vents from monomer recovery, spinning lines at plants that do not have a monomer recovery process, and AN storage tanks. We are proposing to adopt the State permit requirements applicable to the one existing area source as the NESHAP for existing acrylic and modacrylic fiber production area sources. The State operating permit for the existing area source establishes numerical limits for AN emissions from the control devices for polymerization process equipment and monomer recovery process equipment. The permit also establishes operating limits for the scrubbers.

The control device for polymerization process equipment would be subject to an AN emissions limit of 0.2 pound per hour (lb/hr). A control device operating limit would require a minimum daily average water flow rate to the scrubber of 50 liters per minute (l/min). The control device for emissions from the monomer recovery process equipment would be subject to an AN emissions limit of 0.05 lb/hr, and the daily average water flow rate must not drop below 30 l/min.

This proposed rule does not include requirements for spinning lines for existing sources that remove residual AN using a monomer recovery process prior to spinning. (See section D.1 of this preamble.) However, existing sources that do not have a monomer recovery process prior to spinning must meet the requirements for spinning lines in 40 CFR part 63, subpart YY.

This proposed NESHAP for existing sources would require that AN storage tanks meeting certain capacity/vapor pressure conditions comply with one of three control options: (1) A fixed roof in combination with an internal floating roof, (2) an external floating roof, or (3) a closed vent system and control device.

*New sources.* The proposed standards for new area sources apply to process vents, fiber spinning lines, AN storage tanks, process wastewater, maintenance wastewater, and equipment leaks. The proposed process vent requirements apply to each vent stream with an AN concentration of 50 parts per million by volume (ppmv) or greater and a flow rate of 0.005 cubic meters per minute or greater. The owner or operator would be required to control AN emissions from process vents meeting this applicability criteria by reducing uncontrolled

emissions by 98 weight percent or meeting an emissions limit (20 ppmv) by venting vapors through a closed vent system to a recovery device, control device, or flare. The owner or operator would be required to determine which process vents meet the applicability criteria by using the procedures and methods in § 63.1104 of subpart YY. The closed vent system, recovery or control device, and flare would be subject to the applicable testing, monitoring, recordkeeping, and reporting requirements in 40 CFR part 63, subpart SS. The owner or operator would be required to submit a monitoring plan if another type of control device is used.

The proposed emissions limits for fiber spinning lines at new sources require the owner or operator to: (1) Reduce AN emissions by 85 weight-percent (e.g., by venting emissions from a total enclosure through a closed vent system to a control device that meets the requirements in 40 CFR part 63, subpart SS), (2) reduce AN emissions from the spinning line to 0.5 pounds of AN per ton (lb/ton) of acrylic and modacrylic fiber produced, or (3) reduce the AN concentration of the spin dope to less than 100 parts per million by weight (ppmw). The requirements in 63.1103(b)(4) of subpart YY would apply to an enclosure for a fiber spinning line.

For all AN storage vessels at a new area source, the owner or operator would be required to: (1) Reduce AN emissions by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices as specified in § 63.982(a)(1) of subpart SS or reduce AN emissions by 95 weight-percent or greater by venting emissions through a closed system to a recovery device as specified in § 63.993 of subpart SS; or (2) comply with the equipment standards for internal or external floating roofs in 40 CFR part 63, subpart WW.

Process wastewater and maintenance wastewater at new sources would be subject to the requirements in § 63.1106(a) and (b) of subpart YY. The owner or operator would also be required to comply with the equipment leak requirements in subpart YY. Subpart YY applies the requirements in either subpart TT or UU to equipment that contains or contacts 10 percent by weight or greater of AN and that operates at least 300 hours per year.

### 3. Compliance Requirements

We are proposing to include in this proposed NESHAP the monitoring, testing, recordkeeping, and reporting requirements in the State operating

permit for the existing area source. Continuous parameter monitoring systems (CPMS) would be required to measure and record the scrubber water flow rates at least every 15 minutes. The owner or operator would determine compliance with the daily average operating limits for the scrubber water flow rates on a monthly basis and submit quarterly compliance reports to EPA or the delegated authority. Compliance with the operating limits would be determined on a monthly basis; quarterly compliance reports also would be required. The owner or operator would be required to keep records of each monthly compliance determination and retain the records for at least 2 years following the date of each compliance determination. If the daily average water flow rate falls below the operating limit, the owner or operator must notify EPA or the delegated authority within 10 days of the identification of the exceedance.

The owner or operator of an existing source would be required to conduct a performance test for each control device for polymerization process equipment and monomer recovery process equipment. A performance test would not be required for an existing source if a prior performance test has been conducted using the methods required by this rule, which are the requirements contained in § 63.1104 of subpart YY, and either no process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

For AN storage tanks at existing sources, the owner or operator would be required to comply with the applicable testing, inspection, and notification procedures in 40 CFR 60.113b(a) and the recordkeeping and reporting requirements in 40 CFR 60.115b and 60.116b of subpart Kb. The testing, monitoring, recordkeeping, and reporting requirements in 40 CFR part 65, subpart C would apply if the owner or operator selected to comply with the part 65 control option for AN storage tanks. See 40 CFR 60.110b(e).

The owner or operator of an existing area source would be required to comply with certain notification requirements in 40 CFR 63.9 of the General Provisions (40 CFR part 63, subpart A). These requirements would include a notification of applicability and a notification of compliance status. We are also proposing that the owner or operator comply with the requirements for startup, shutdown, and malfunction

(SSM) plans, reports, and records in 40 CFR 63.6(e)(3).

In the notification of compliance status required in 40 CFR 63.9(h), the owner or operator of an existing source may certify initial compliance with the emissions limits based on a previous performance test if applicable. The owner or operator must also certify initial compliance with the NSPS requirements in 40 CFR part 60, subpart Kb.

The owner or operator of a new area source would be required to perform assessments<sup>3</sup> to identify affected process vents, equipment, and wastewater streams; conduct initial performance tests and/or compliance demonstrations; and comply with the monitoring, inspection, recordkeeping, and reporting requirements in each applicable subpart. The testing, monitoring, recordkeeping, and reporting requirements in the subparts described above, which we are adopting in this proposed rule, vary according to the emissions point and control option (e.g., subpart SS for process vents). The owner or operator of a new area source would also be required to comply with all of the NESHAP General Provisions (40 CFR part 63, subpart A), including requirements for notifications; performance tests and reports; SSM plans and reports; recordkeeping, and reporting. We have identified in the proposed NESHAP the General Provisions of 40 CFR part 63 applicable to existing and new sources.

#### *D. What is our rationale for selecting the proposed standards for area sources?*

##### 1. Selection of Proposed Standards

*Existing sources.* The process vents at the existing area source plant are controlled by packed bed scrubbers and are subject to emissions limits established in the State operating permit. Emissions from the polymerization process equipment are limited to 0.2 lb/hr. This process equipment includes process storage tanks, recovered monomer tanks, monomer measuring tanks, monomer preparation tanks, monomer feed tanks, the polymerization reactors, and drum filter. Emissions from the monomer recovery process equipment are limited to 0.05 lb/hr. These process units include the polymer holding tank, polymer buffer tank, monomer vacuum pump flush drum, and the drum filter vacuum pump flush drum. Test data for these two process vents show that the vents are well controlled because the

<sup>3</sup> These assessments are used to determine which process vents and wastewater streams must be controlled.

facility achieves the level of control required for major sources subject to 40 CFR part 63, subpart YY. We have determined that the State operating permit limits are GACT for process vents at existing area sources.

The fiber spinning line at the existing area source plant is not a source of AN emissions because the residual monomer is stripped from the polymer in a monomer recovery column prior to spinning. However, other existing facilities might become area sources in the future, and they might not have a monomer recovery process.

Consequently, we are proposing that any existing source without a monomer recovery process must reduce the residual AN concentration in the polymer by removing residual monomer prior to spinning or install an enclosure for the spinning line and vent the emissions to a control device. Existing area sources without a monomer recovery process must meet requirements for fiber spinning lines in 40 CFR part 63, subpart YY. We have determined that the requirements in 40 CFR part 63, subpart YY are GACT for existing area sources without a monomer recovery process.

The AN storage tanks at the existing area source plant are subject to the NSPS for volatile organic liquids (40 CFR part 60, subpart Kb). The NSPS requires that a storage tank meeting certain capacity/vapor pressure conditions comply with either the requirements for storage vessels in subpart C of 40 CFR part 65 (Consolidated Federal Air Rules) or the NSPS requirements for a fixed roof in combination with an internal floating roof, an external floating roof, or a closed vent system and control device. The AN storage tanks at the existing area source are equipped with internal floating roofs to comply with the NSPS requirements. The controls in the NSPS are currently being applied to AN storage tanks and are the types of controls generally applied to tanks storing volatile organic liquids. Consequently, we determined that the controls required by the NSPS are GACT for storage tanks at existing sources.

The potential for emissions from equipment leaks is low at the existing area source plant because of the use of canned motor pumps and pipes connected in large part by welding rather than flanges. A fugitive emissions survey using EPA's protocol for estimating emissions from equipment leaks coupled with capture and measurement of leaks resulted in estimated emissions of only 0.5 tpy of AN (assuming any leak that was detected emitted for the full year). A

leak detection and repair program for this plant would cost several thousand dollars in labor and in capital for the monitoring equipment. After considering the low level of current emissions, the additional costs, and the small emissions reduction that would be achieved by a leak detection and repair program, we propose that GACT for existing area sources is no additional control for equipment leaks.

Wastewater at the existing plant is sent to a biological treatment unit to degrade AN. Emissions of organic compounds from wastewater can be reduced by steam stripping the wastewater to remove and recover the organics. We estimate that the capital cost of steam stripping to remove AN from the wastewater at the existing area source plant is \$700,000 with a total annualized cost of \$630,000 per year. Even assuming 90 percent removal by the steam stripper, the emissions reduction would be 7 tons per year. We propose to conclude that pretreatment using steam stripping is not GACT because of the high cost effectiveness of processing a low concentration stream with a high volumetric flow rate. This conclusion is consistent with previous cost effectiveness analyses such as those performed for major sources where EPA determined that it is not cost effective to apply controls to wastewater below certain cutoffs (e.g., a concentration less than 1,000 ppmw and a flow rate less than 10 liters per minute (57 FR 62608, December 31, 1992)). The process wastewater at the existing area source is below these cutoffs. Consequently, we are not proposing additional controls for wastewater at the existing area source plant and conclude that GACT is the current level of control.

We are alternatively proposing that GACT for this existing area source is no further emission reduction. We request comment on the basis, consistent with section 112(d)(5), for asserting that GACT is no further control for the existing source. We request comment on this issue because the standard proposed above will not result in any emission reductions beyond what is already required by the State permit to which the existing facility is already subject.

*New Sources.* Test results for the control devices applied to process vents at the existing area source show that a standard of 98 weight-percent reduction or an outlet concentration of 20 ppmv or less has been achieved by the controls we propose as GACT at the existing source.<sup>4</sup> Consequently, we are

<sup>4</sup>This is also the level of control that major sources must meet for process vents.

proposing that GACT for process vents at a new area source is a 98 weight-percent reduction of AN emissions, an outlet concentration of 20 ppmv or less, or venting emissions to a flare. This format of the proposed standard is more appropriate for new sources than a process vent limit expressed in lb/hr (as applied to the existing area source) because we do not know what the size, configuration, or emissions potential of a new source might be.

As discussed earlier, the fiber spinning line at the existing area source plant is not a source of AN emissions because the residual monomer is stripped from the polymer in a monomer recovery column prior to spinning. However, we cannot be certain what process configuration a new source might use or that it would have a monomer recovery system. Consequently, we are proposing that a new source must reduce the residual AN concentration in the polymer by removing residual monomer prior to spinning or install an enclosure for the spinning line and vent the emissions to a control device. Data from acrylic and modacrylic fiber production indicates that a monomer recovery system can reduce the AN concentration in the spin dope to less than 100 ppmw, which we are proposing as GACT for new area sources. We are proposing alternatives to the AN residual concentration limit for new sources that are the same as the alternatives that are available for major sources in 40 CFR part 63, subpart YY. One alternative is to reduce AN emissions from the spinning line by 85 weight-percent or more. The second alternative is to reduce AN emissions from the spinning line to less than or equal to 0.5 lb/ton of acrylic and modacrylic fiber produced.

For storage tanks at new area sources, we are proposing to adopt the requirements in 40 CFR part 63, subpart YY. These requirements have been applied to AN storage tanks at other acrylic and modacrylic fiber plants and represent GACT for new sources because they are cost effective and can be easily included in the design and construction of a new source.

We also evaluated emissions controls and management practices for equipment leaks at new sources. We know that equipment leaks are well controlled at the existing area source facility; however, we do not know with assurance that a new source will have primarily leakless equipment. In addition, our studies of synthetic organic chemical plants indicate that leak inspection and repair requirements are cost effective and not overly burdensome. Consequently, we are



proposing that new area sources be subject to the same equipment leak provisions as those applied to major sources in 40 CFR part 63, subpart YY.

For wastewater streams at new area sources, we do not know what flow rates, concentrations and emissions potential might occur, but our studies of wastewater treatment controls indicate that it is cost effective to control these emissions when the concentration of AN is high. For example, at most acrylic and modacrylic fiber plants, all wastewater streams with a concentration of 10,000 parts per million by weight (ppmw) or more must be controlled, as well as streams with both a concentration of 1,000 ppmw or more and a flow rate of 10 l/min or more. Controls are not required for wastewater streams below these cutoffs because they are not cost effective. Thus we are proposing that GACT for new sources is the control of wastewater streams that exceed the cutoffs of concentration and/or flow rate as specified in subpart YY.

## 2. Selection of Proposed Compliance Requirements

We have reviewed the compliance requirements in the State operating permit, the NSPS for volatile organic liquid storage tanks, and other requirements that apply to the existing area source plant, and we propose that these requirements are sufficient to ensure compliance with the proposed emissions standards. Therefore, we are proposing to include the inspection, monitoring, recordkeeping, and reporting requirements that apply to the existing area source plant in this proposed rule for existing sources.

We are proposing to require that an existing area source be subject to certain notification requirements in the NESHAP General Provisions (40 CFR part 63, subpart A). Because permit information for the existing facility does not identify requirements for an SSM plan, we are also proposing to require the owner or operator of an existing area source to comply with the SSM requirements in 40 CFR 63.6(e)(3). We are proposing to allow additional time (6 months after promulgation) to allow for preparation of the plan.

We have also reviewed the compliance requirements in the subparts of part 63 that would apply to process vents, storage tanks, equipment leaks, and wastewater at new area sources as a result of this proposed rule. These requirements are sufficient to ensure compliance with the proposed emissions limits and management practices. Therefore, we are proposing to include the testing, monitoring,

recordkeeping, and reporting requirements in each applicable subpart in this proposed rule for new sources.

We are also proposing to apply to new sources the notification, testing, monitoring, operation and maintenance, recordkeeping, and reporting requirements in the part 63 General Provisions (40 CFR part 63, subpart A). The General Provisions are necessary for effective application of the standard for new area sources and are, therefore, incorporated into the proposed rule. We propose that these requirements are sufficient to ensure compliance with the proposed emissions limits and management practices for new sources.

## IV. Proposed Area Source NESHAP for Carbon Black Production

### A. What area source category is affected by the proposed NESHAP?

The Carbon Black Production area source category includes any facility that produces carbon black by the furnace black process, thermal black process, or the acetylene decomposition process. Carbon black is used primarily as a reinforcing agent for rubber and is used largely in the manufacturing of automotive tires. It is also used as a colorant in inks, paints, plastics, and paper.

Currently, there are 20 carbon black production facilities operating in the U.S. Nineteen of these facilities are major sources of HAP emissions and are subject to NESHAP requirements for carbon black production in 40 CFR part 63, subpart YY. According to the National Emissions Inventory (NEI) and the Toxics Release Inventory (TRI), one carbon black production facility is an area source of HAP emissions. We are requesting comments on whether there are any other area sources in this source category.

### B. What are the production processes and emissions points at facilities that manufacture carbon black?

A carbon black unit (CBU) consists of the equipment used to produce carbon black by either the furnace, thermal or acetylene decomposition processes. The major components of the CBU include: (1) Feedstock and raw material storage tanks; (2) production unit reactors; (3) separation filters; (4) wet or dry pelletization equipment and densification equipment; (5) final product silos and packaging for pellets and powders; and (6) shipping storage areas.

Carbon black is produced by the furnace black process via thermal-oxidative decomposition in a closed system. The feedstock is primarily

aromatic oils based on crude oil. Feedstock is injected into the reactor and is converted to carbon black. The reactor is heated by a fuel, usually natural gas.

The thermal black process produces carbon black via thermal decomposition in a cyclic process. The primary feedstock is natural gas. The process generally includes two vertical reactors in parallel. While one reactor is heating, the other reactor is in the decomposition cycle.

The acetylene black process uses an acetylene feedstock to produce carbon black via thermal decomposition in a continuous process. The acetylene black reactor is similar to the reactor for the thermal black process; however, since it is a continuous process, usually only one reactor is used.

The remaining processes for the furnace black, thermal black and acetylene black production processes are similar. The carbon black and tailgas stream from the reactor is cooled in a heat exchanger. Energy from the carbon black and tailgas stream is used to preheat combustion air for the reactor. Following the heat exchanger, a secondary quench chamber is used to further cool the carbon black and tailgas stream.

Carbon black is separated from the tailgas in the main separation filter. Tailgas may be collected and used as fuel in the dryer (if present), burned to preheat the feedstock (if a preheater is present), vented to the atmosphere, or vented to a combustion device for destruction.

Carbon black is separated from the conveying air in the process filter. Solid contaminants (e.g., coke particles, abraded particles from the refractory lining of the furnace, or rust particles) are removed from the carbon black in the grit separator.

Initial densification of the carbon black takes place in the surge tank, which also acts as a buffer to maintain constant production levels. Carbon black is processed into pellets in either a wet pelletizer or a dry pelletizer. In the wet pelletization process, water, and sometimes additives, is injected into the pelletizer and the carbon black leaves as wet pellets and are dried in the dryer. Tailgas may be used as fuel in the dryer for external heating. Carbon black and steam from the dryer exhaust are separated in the purge filter and the carbon black is recycled to the process filter.

In the dry pelletization process, the pelletizer is a rotating drum. A portion of the pelletized carbon black is recycled to the inlet of the drum to act as seeds for the new pellets. Pelletized



carbon black is housed in the storage silo until it is discharged to trucks or rail cars, intermediate bulk storage, or packaging.

The Carbon Black Production area source category was listed for regulation due to emissions of the urban HAP POM. Benzene is another urban HAP emitted from the CBU. The HAP are released into the atmosphere from the tailgases from the reactors. The carbon black and tailgas stream is sent to a baghouse where the carbon black is separated from the tailgas. After separation of the carbon black product, the tailgas is either emitted to the atmosphere or sent to a combustion control device.

### *C. What are the proposed requirements for area sources?*

#### 1. Applicability and Compliance Dates

The proposed NESHAP applies to each new or existing carbon black production facility that is an area source of HAP. Because the one existing area source is already meeting requirements that are the same as those in this proposed NESHAP, we are proposing that an existing affected source comply by the date of publication of the final rule in the **Federal Register**. A new affected source would be required to comply by the date of publication of the final rule in the **Federal Register** or upon initial startup, whichever is later.

#### 2. Proposed Emissions Standards

We are proposing that the owner or operator of an existing or new source be required to control HAP emissions from each carbon black production main unit filter process vent that has a HAP concentration equal to or greater than 260 ppmv. The specific control requirements are: (1) Reduce emissions of HAP by using a flare meeting all the requirements of 40 CFR part 63, subpart SS; or (2) reduce total HAP emissions by 98 weight-percent or to a concentration of 20 ppmv, whichever is less, by venting emissions through a closed vent system to any combination of control devices meeting the requirements 40 CFR 63.982(a)(2).

#### 3. Compliance Requirements

For existing and new area sources, we are proposing to adopt the testing, monitoring, recordkeeping, and reporting requirements in subpart YY. Compliance with the proposed emissions limit for existing and new area sources would be demonstrated by monitoring the operating parameters of the control device or devices selected to comply with the requirements of the NESHAP. The proposed NESHAP

specifies requirements for the initial notification, the notification of compliance status, periodic reporting, and SSM requirements.

The owner or operator of an existing or new area source would be required to comply with the subpart YY notification requirements in 40 CFR 63.1110. In the notification of compliance status required in 40 CFR 63.1110(d), the owner or operator of an existing source may demonstrate initial compliance with the proposed HAP emissions standards based on the results of a performance test that has been previously conducted provided certain conditions are met (*e.g.*, using the same methods as the test methods in the proposed rule).

### *D. What is our rationale for selecting the proposed standards for area sources?*

#### 1. Selection of Proposed Standards

Based on information in the NEI and TRI, we identified only one existing carbon black production facility that is an area source. We are requesting comments on whether there are any other area sources in this source category. This carbon black production facility operates emissions control systems that capture and control tailgases from their four CBUs. The tailgases from each CBU are routed to control devices (two are routed to a flare and two are routed to a thermal incinerator) that achieve high-efficiency removal of volatile organic compounds (VOC), including polycyclic organic matter (POM) and benzene.

The existing area source is currently operating under a title V permit, which requires a 98 weight-percent VOC emissions reduction. The facility's ability to demonstrate compliance with their title V permit emissions limits on a long-term basis indicates that the facility owner has the technical and economic capabilities to continue to reduce VOC emissions (including POM and benzene) sufficiently to achieve these limits. Further, although the existing area source facility utilizes the furnace black production process, a 98 weight-percent emissions reduction would apply equally to all types of production processes. Consequently, we do not distinguish between the different carbon black production processes.

After reviewing the existing facility's title V permit requirements, we concluded that the permit requirements are equivalent to the provisions of 40 CFR 63, subpart YY, which is the rule to which major source carbon black facilities are subject. Further, the facility has applied for renewal of their title V permit to specifically include the

requirements of subpart YY for their CBU. Because control technologies to reduce VOC emissions also reduce POM and benzene emissions, the 98 weight-percent VOC emission reduction in their title V permit is equivalent to the 98 weight-percent HAP level of control specified in subpart YY. We have no reason to believe that this emissions reduction is infeasible or inappropriate for all area sources in this category. Therefore, we have determined that a 98 weight-percent HAP emissions reduction is GACT for existing and new carbon black production area source facilities, which may be achieved using one or more control devices or a flare subject to § 63.11 of the NESHAP General Provisions (40 CFR part 63, subpart A).

In addition to the 98 weight-percent level of control, we have established that for low concentration streams (*e.g.*, streams with concentrations less than about 1,000 ppmv), a 98 weight-percent reduction may not be achievable for all process vents from the main unit filter (65 FR 76423). Therefore, we have determined that a HAP concentration limit of 20 ppmv (corrected to 3 percent oxygen if a combustion device is the control device and supplemental combustion air is used to combust the emissions) is appropriate as GACT for low-concentration streams.

The subpart YY NESHAP also include a 260-ppmv control applicability cutoff. This cutoff represents the lowest control device inlet concentration reported at one of the best-controlled facilities. We do not have available information to indicate that the single existing area source controls process vent emissions streams with concentrations below this level. Therefore, we have included the 260-ppmv control applicability cutoff in this proposed area source NESHAP.

We are alternatively proposing that GACT for this existing area source is no further emission reduction. We request comment on the basis, consistent with section 112(d)(5), for asserting that GACT is no further control for the existing source. We request comment on this issue because the standard proposed above will not result in any emission reductions beyond what is already required by the Federal permit to which the existing facility is already subject.

#### 2. Selection of Proposed Compliance Requirements

The existing carbon black area source facility's title V permit requires operating parameter monitoring, recordkeeping, and periodic reporting. We reviewed these compliance requirements and concluded that they

are sufficient to ensure compliance with the proposed emissions standards for existing and new sources. Because these requirements are equivalent to those in 40 CFR part 63, subpart YY, we have adopted the subpart YY compliance requirements in this proposed rule. These requirements include operating parameter monitoring, initial performance testing, notifications, and periodic reports.

Because permit information for the existing facility does not identify requirements for an SSM plan, we are proposing that the owner or operator of an existing area source comply with the SSM requirements in 40 CFR 63.1111. Section 63.1111(a)(1) of subpart YY requires that the title V permit for a source include provisions for an SSM plan.

#### **V. Proposed Area Source NESHAP for Chemical Manufacturing: Chromium Compounds**

##### *A. What area source category is affected by the proposed NESHAP?*

The area source category, "Chemical Manufacturing: Chromium Compounds," includes facilities that use chromite ore as the basic feedstock to manufacture chromium compounds, primarily sodium dichromate, chromic acid, and chromic oxide. There are only two plants in this area source category, and both are located in urban areas. One plant is located in Castle Hayne, North Carolina (near Wilmington) and the other is in Corpus Christi, Texas.

Most of the sodium dichromate produced by the two plants is used to make chromic acid. Sodium dichromate is also used in leather tanning, chromic oxide production, pigments manufacture, textile dyeing, and in the manufacture of numerous other products. Chromic acid is used in the metal finishing industry to produce resistant coatings for a variety of base metals. Other uses include decorative plating, conversion coatings, and metal coloring compounds. The two main uses of chromic oxide are in pigments and refractories.

##### *B. What are the production processes and emissions points at facilities that manufacture chromium compounds?*

Although the basic processes at the two plants are similar, there are some subtle differences in the processing steps, and the two plants have somewhat different emissions points and control configurations. Consequently, separate profiles of the processes and emissions controls are provided in sections V.B.1 through V.B.4 of this preamble.

#### **1. Sodium Chromate Production**

The main feedstock for the manufacturing process is chromite ore imported from South Africa and Finland, typically containing about 45 percent or more chromium oxide. At the Texas plant, the chromite ore is dried and ground in a ball mill. The ground ore is mixed with alkaline material (soda ash, sodium bicarbonate, and sodium hydroxide) and fed to a rotary kiln where it is heated to about 2,000 degrees Fahrenheit (°F). This process (known as "roasting") oxidizes the chromite ore, converting the majority of the chromium in the ore from trivalent to hexavalent chromium. Baghouses on the ore drying and grinding unit control emissions. Baghouses also control emissions from the rotary kiln during roasting. After roasting, the material typically contains 20 to 40 percent hexavalent chromium as sodium chromate and 10 to 20 percent trivalent chromium. The material exiting the rotary kiln is quenched with water in quench tanks. The quenching process is controlled by a wet scrubber and wet electrostatic precipitator.

The resulting ore slurry goes through a belt filter to filter and purify the sodium chromate. The filters remove solid aluminum, vanadium, and calcium residues. Sodium dichromate is added to the ore slurry to aid in the removal of aluminum. Calcium hydroxide (lime) is added to remove vanadium. Soda ash solution is added to remove calcium. A baghouse on the impurity treatment and filtration units controls emissions.

Some of the impurities from the impurity treatment and filtration unit are placed in a secondary roasting kiln with sodium hydroxide and additional chromite ore for another round of chromium recovery. Roasted and quenched material from the secondary kiln travels to impurity treatment and filtration units for the same purification process described above for materials from the primary roasting unit. A baghouse on the secondary kiln and wet scrubber on the quench system control emissions.

At the North Carolina plant, the chromite ore is dried in rotary dryers and then pulverized in ball mills. The pulverized ore is prepared for roasting by mixing the ore with lime, soda ash, and recycled residue from the roasting kilns. Emissions from the ore drying and grinding units are controlled by cyclones and dry electrostatic precipitators. The kiln feed is fed to one of three rotary kilns in which the chromite ore is roasted. The hot gases generated in the kilns are sent to waste

heat boilers for energy recovery. Emissions from the waste heat boilers travel to dry electrostatic precipitators and are vented through the main stack. The dry electrostatic precipitators process several gas streams, including emissions from the ore drying and grinding units, the roasting kiln waste heat boilers, the ore mixing unit and roasting kiln, and the post-leach ore residue drying unit.

After exiting the kiln, the hot kiln roast is quenched and leached with hot water in tanks to dissolve the water-soluble sodium chromate and form a sodium chromate slurry. The sodium chromate slurry is sent to a recycle unit where hydroclones separate unconverted ore residue from the sodium chromate solution. The ore residue is washed and filtered on a filter belt, dried, and recycled to the kiln. A system of cyclonic scrubbers and wet electrostatic precipitators on the quench tanks and filter unit are used to control emissions. Emissions from the ore residue dryer are controlled by a cyclone and the dry electrostatic precipitators described earlier.

#### **2. Sodium Dichromate Production**

At the Texas plant, the purified sodium chromate solution travels from the impurity treatment and filtration system to the electrolytic cell system for electrolytic acidification. Water is added to the electrolytic cells as well. This process converts the sodium chromate solution to sodium dichromate solution. Fiber bed filters on the electrolytic cell system control emissions. The sodium dichromate can be sold or used on-site in the production of chromic oxide or chromic acid.

Some sodium chromate solution is sent to a sodium chromate crystallization, evaporation, and drying unit to produce sodium chromate crystals. These crystals are then packaged for sale. Some sodium dichromate solution is also sent to a sodium dichromate crystallization, evaporation, and drying unit for production of sodium dichromate crystals. The crystals are sent to a packaging unit for packaging before sale. The emissions from the crystallization, evaporation, and drying units for the sodium chromate and sodium dichromate solutions are controlled by an entrainment separator and wet scrubber.

At the North Carolina plant, the sodium chromate product stream proceeds through a series of pH adjustment and filtration steps using sodium carbonate and sulfuric acid to remove impurities such as iron, aluminum, and other oxides from the

sodium chromate solution. The sodium chromate solution is neutralized to a pH of 8.5 to precipitate and allow filtration of the remaining ore residues. The sodium chromate liquor is mixed with a soda ash solution in the calcium precipitator unit to precipitate the calcium as calcium carbonate. The sodium chromate liquor is then filtered to remove the calcium carbonate. In the acidification unit, the filtered raw sodium chromate liquor is acidified to a pH of 4.0 with sulfuric acid to produce sodium dichromate. This solution is partially evaporated to 85 percent concentration and then centrifuged to separate sodium sulfate (salt cake) from the sodium dichromate solution. After separation from the salt cake, the sodium dichromate product solution is either stored in tanks from which, after dilution to the appropriate concentration, it is either sold as sodium dichromate product liquor or used as feedstock in the chromic acid plant. Some of the sodium dichromate solution is crystallized, centrifuged, and dried to form sodium dichromate crystalline product. Emissions from the crystallization area are controlled by an impingement plate scrubber and demister.

### 3. Chromic Acid Production

At the Texas plant, the production of chromic acid is performed by electrolytic reaction of sodium dichromate solution through a series of cells. Sodium dichromate solution is introduced into the anode side of an electrolytic cell, and water is introduced to the cathode side. Direct current causes a reaction on the anode side of the cell, producing chromic acid, sodium ions, and oxygen gas. Sodium ions migrate to the cathode side (water) of the cell through a membrane, which produces sodium hydroxide and hydrogen gas. The sodium dichromate/chromic acid solution (anode side) is withdrawn to be used as influent for the next cell line. The effluent from the anode side of the last stage is crystallized, centrifuged, dried, and packaged.

Three scrubbers are used to control emissions from chromic acid production. Emissions from the electrolytic cells are controlled by two scrubbers; one scrubber controls oxygen gas and hexavalent chromium emitted from the anode side of the cells and one controls hydrogen gas and hexavalent chromium from the cathode side of the cell. Drying, storage, and packaging operations are vented to the same wet scrubber.

At the North Carolina plant, the sodium dichromate liquor is further

acidified with sulfuric acid to produce chromic acid crystals. The acidified slurry is filtered to recover the chromic acid and the filtrate is recycled to the sodium dichromate process. The chromic acid crystals are fed to a reactor where they are melted. The melted chromic acid produced in the reactor is cooled and then sent to a flaking process to produce the chromic acid flakes which are packaged and sold as final products. Emissions from the chromic acid area are controlled by a packed bed scrubber and demister.

### 4. Chromic Oxide and Chromium Hydrate Production

The Texas plant is the only facility producing chromic oxide and chromium hydrate. In the production of chromic oxide, ammonium sulfate and sodium dichromate solution that has been concentrated by evaporation are mixed and fed to a rotary roasting kiln to produce chromic oxide, sodium sulfate and nitrogen gas. The roast is quenched with water in which the chromic oxide is insoluble and the sodium sulfate is soluble. The mixture is washed in countercurrent thickeners, filtered, dried, milled, and packaged. To produce metallurgical grade chromic oxide and certain other grades, the chromic oxide is re-roasted in a secondary rotary kiln, quenched, filtered, dried, milled, and packaged.

The chromic oxide plant uses baghouses and scrubbers for emissions control; this production area has 10 bag houses and 11 scrubbers. Four baghouses control emissions from the ammonium sulfate storage and grinding area. Emissions from mixing of the sodium dichromate and ammonium sulfate are vented to a wet cyclone. Wet scrubbers control emissions from the quench tanks of both the primary and secondary roasting kilns. A baghouse, wet scrubber, and a mist eliminator control emissions from the primary roasting kiln. A wet scrubber controls emissions from the secondary roasting kiln. Filtration steps after both primary and secondary roasting are each vented to separate wet scrubbers. The dryer vents to a bag filter. Chromic oxide storage, grinding, and packaging steps are vented to six baghouses.

In the production of chromium hydrate, boric acid and concentrated sodium dichromate are mixed and fed to a furnace to produce a chromium hydrate "clinker" and sodium borate. The clinker is quenched with water. The mixture is then leached in tanks and filter presses to form chromium hydrate, then filtered, dried, milled, and packaged. Emissions controls include baghouses for boric acid grinding,

chromium hydrate roasting, and chromium hydrate grinding and packaging.

### C. What are the proposed requirements for area sources?

#### 1. Applicability and Compliance Dates

The proposed NESHAP apply to the owner or operator of a new or existing area source that manufactures chromium compounds. We are proposing that owners or operators of existing sources comply with all the requirements of the area source NESHAP by 6 months after the date of publication of the final rule in the **Federal Register**. A new affected source would be required to comply by the date of publication of the final rule in the **Federal Register** or upon initial startup, whichever is later.

#### 2. Proposed Emissions Standards

The proposed NESHAP requires new and existing facilities to operate a capture system that collects gases and fumes from each emissions source and conveys the gases to a PM control device. Emissions limits for PM, in lb/hr format, would be established based on the process rate of the emissions unit. These PM emissions limits would apply to more than 20 emissions units in the production of chromium compounds, including sodium chromate, sodium dichromate, chromic acid, chromic oxide, and chromium hydrate at new and existing sources.

#### 3. Compliance Requirements for Existing Area Sources

The control devices used at these facilities include baghouses, dry electrostatic precipitators, wet electrostatic precipitators, and wet scrubbers. The proposed monitoring requirements for existing area sources consist of inspection and maintenance requirements specific to the type of control device.

For a baghouse, this proposed NESHAP requires monthly visual inspections of the system ductwork and baghouse units for leaks. The plant owner or operator would also be required to conduct an annual inspection of the interior of each baghouse for structural integrity and condition of the filter fabric. For electrostatic precipitators, plants would be required to conduct: (1) A daily check to verify that the electronic controls for corona power and rapper operation are functioning, that the corona wires are energized, and that adequate air pressure is present on the rapper manifold; (2) a monthly visual inspection of the system ductwork,

cyclones (if applicable), housing unit, and hopper for leaks; and (3) a biennial internal inspection to determine the condition and integrity of corona wires, collection plates, plate rappers, hopper, and air diffuser plates. For wet electrostatic precipitators, plants would also be required to conduct a daily check to verify water flow and a biennial internal inspection to determine the condition and integrity of plate wash spray heads. For wet scrubbers, plants would be required to conduct: (1) A daily check to verify water flow to the scrubber; (2) a monthly visual inspection of the system ductwork and scrubber unit for leaks; and (3) an annual internal inspection for structural integrity and condition of the demister and spray nozzle.

The owner or operator of an existing plant would be required to record the results of each inspection, the results of any maintenance performed on the control device, and the date and time of each recorded action. The results of inspections and maintenance of control equipment would be recorded in a logbook (written or electronic). The logbook would be kept onsite and made available to the permitting authority upon request. The owner or operator of an existing plant would be required to report any deviations from the emissions limits or monitoring requirements in a semiannual report submitted to the permitting authority.

The owner or operator of an existing area source would be required to submit an initial notification of applicability and a notification of compliance status according to the requirements in 40 CFR 63.9 of the General Provisions (40 CFR part 63, subpart A). A performance test would not be required if a performance test has been conducted within the past 5 years using the specified test methods and either no process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes. We are also proposing that the owner or operator comply with either the requirements for SSM plans and reports in 40 CFR 63.6(e)(3) or with the malfunction requirements in this proposed rule that are based on the title V permit requirements. The permit requires a report if an event occurs that results in emissions in excess of a PM limit and lasts for more than 4 hours.

#### 4. Compliance Requirements for New Area Sources

The owner or operator of a new source would be required to install and operate a bag leak detection system for

each baghouse used to comply with a PM emissions limit. The requirements for the bag leak detection system are set forth in proposed section 63.11410(g). For additional information on bag leak detection systems that operate on the triboelectric effect, see "Fabric Filter Bag Leak Detection Guidance", U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, September 1997, EPA-454/R-98-015, NTIS publication number PB98164676. This document is available from the National Technical Information Service (NTIS), 5385 Port Royal Road, Springfield, VA 22161.

The owner or operator of a new source that uses a control device other than a baghouse must submit a monitoring plan to the permitting authority for approval. The plan must describe the control device, the parameters to be monitored, and the operating limits for the parameters established during a performance test.

The owner or operator of a new source would be required to demonstrate initial compliance with each applicable PM emissions limit by conducting a performance test according to the requirements in 40 CFR 63.7. EPA Method 5 or 5D (40 CFR part 60, appendix A), as applicable, would be used to determine the PM emissions. All of the testing, monitoring, operation and maintenance, recordkeeping, and reporting requirements of the part 63 General Provisions would apply to a new area source. We have identified in the proposed NESHAP the General Provisions of 40 CFR part 63 applicable to existing and new sources.

#### D. What is our rationale for selecting the proposed standards for area sources?

##### 1. Selection of PM as a Surrogate for Chromium

The PM emissions from the various processes used for manufacturing chromium compounds contain the urban HAP chromium, and emissions control equipment that is designed and operated to control PM emissions also control chromium emissions. Both plants have title V operating permits that require PM emissions controls and establish emissions limits for PM. For these reasons, we decided to establish standards using PM as a surrogate for chromium emissions, which is the urban HAP that was the basis for the listing. Controlling PM emissions will control chromium emissions since they are contained within the PM—they are in the particulate form as opposed to the gaseous form. PM controls used at existing chromium plants are the same controls available to control particulate

HAP metals such as chromium. These controls capture particulate HAP metals non-preferentially along with other PM, thus making PM a reasonable surrogate for chromium. We have used this approach in several other NESHAP in which PM was determined to be a surrogate for the HAP metals in the PM.

##### 2. Selection of Proposed Standards

The two existing chromium compound production facilities currently hold title V operating permits issued by their respective State permitting agencies. Both permits contain PM emissions limits for all processes used to produce chromium compounds. We determined that the PM emissions limits applicable to these emissions sources are consistent with the expected performance of similar operations controlled by well-operated and maintained emission control devices. These control devices (baghouses, wet scrubbers, and wet and dry electrostatic precipitators) are widely used to control the emissions from both primary and secondary production of many different metals, they have been demonstrated to be effective at controlling emissions of metal HAP, they are cost effective, and they represent GACT for new and existing area sources in the chromium compounds manufacturing industry.

We reviewed the PM limits in the title V operating permits for both plants. The North Carolina plant has PM limits that are expressed in an equation as a function of process throughput. For example, as the process throughput decreases, the PM emissions limit in lb/hr also decreases. This equation is applied to each of the production processes for chromium compounds, and the allowable emissions limit based on throughput accounts for changes in production levels, which affects the level of emissions control that can be achieved. The Texas plant has emissions limits that are fixed in terms of allowable lb/hr and are independent of process throughput. A format that is fixed in lb/hr is not an appropriate approach for other existing plants or for new plants because it does not account for differences in size or capacity.

We determined that the format used in the title V permit for the North Carolina plant was appropriate for a national standard for new and existing area sources. This mechanism for determining the emissions limit accounts for differences in process rates at different plants and it accounts for changes in the process rate at a given plant over time. We have also determined that the Texas plant can achieve the proposed emissions limits

based on process throughput using their existing emissions control equipment. Consequently, we are proposing to apply this equation to determine emissions limits for each of the production processes at all new and existing area source plants for this national standard.

We are alternatively proposing that GACT for these existing area sources is no further emission reduction. We request comment on the basis, consistent with section 112(d)(5), for asserting that GACT is no further control for these existing sources. We request comment on this issue because the standard proposed above will not result in any emission reductions beyond what is already required by the Federal permits to which the existing facilities are already subject.

### 3. Selection of Proposed Compliance Requirements

We are proposing to base the compliance requirements for existing area sources on the operation and maintenance, recordkeeping, and reporting requirements in the title V permit of the area source located in North Carolina. The title V permit includes requirements for inspections and maintenance of each type of control device, semiannual reports of any deviation, and records of control device inspections and maintenance. In contrast, the compliance requirements for the Texas plant include very little with respect to monitoring or maintaining emissions control equipment. The requirements we are proposing are necessary to ensure emissions controls are maintained and operated properly on a continuing basis. The requirements do not pose a significant additional burden for the Texas plant that must implement them. We are allowing 6 additional months for existing area sources to prepare a startup, shutdown, and malfunction plan and implement the inspection and maintenance requirements for control devices.

We would require that the existing plants comply with limited initial notification requirements in 40 CFR 63.9 of the NESHAP General Provisions (40 CFR part 63, subpart A). In the notification of compliance status required by 40 CFR 63.9(h), the owner or operator would certify that equipment has been installed and is operating for each regulated emissions point and that the plant will comply with the inspection and maintenance requirements. The plant would be required to conduct a performance test to demonstrate initial compliance if a

performance test has not been conducted in the past five years.

We are proposing to require bag leak detection systems for baghouses used at new area sources; a monitoring plan would be required if another type of control device is used. Bag leak detection systems are typical requirements for new sources of the size and complexity of chromium compound manufacturing facilities. In addition, these systems can be incorporated into the design and operation for new sources and would not require retrofitting or duplicative monitoring as would be the case if they were applied to existing sources.

For new area sources, we are also proposing to apply the notification, testing, monitoring, operation and maintenance, recordkeeping, and reporting requirements in the part 63 General Provisions (40 CFR part 63, subpart A). The General Provisions are necessary for effective application of the standard for new area sources. We propose that these requirements are sufficient to ensure compliance with the proposed emissions limits for equipment at new area sources.

## VI. Proposed Area Source NESHAP for Flexible Polyurethane Foam Production and Fabrication

### A. What area source categories are affected by the proposed NESHAP?

This proposed NESHAP applies to two area source categories: Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication Operations. We are addressing these two area source categories in a single NESHAP due to similarity of their operations and because they are often co-located.

The Flexible Polyurethane Foam Production area source category includes any facility which manufactures foam made from a polymer containing a plurality of carbamate linkages in the chain backbone (polyurethane). Polyurethane is commonly made by reacting a polyisocyanate with an organic polyhydroxyl material in the presence of water. Application of blowing agents, catalysts, surfactants, and fillers transform the polyurethane into a foam with specialized properties.

There are three types of polyurethane foam production facilities: slabstock flexible polyurethane foam (slabstock foam), molded flexible polyurethane foam (molded foam), and rebond foam. Slabstock foam is produced in large continuous "buns" that are then cut into the desired size and shape. Slabstock foam is used in a wide variety of

applications, including furniture and mattresses. Molded foam is produced by "shooting" the foam mixture into a mold of the desired shape and size. Molded foam is used in office furniture, automobile seats, novelties, and many other applications. Rebond foam is made from scrap foam that is converted into a material primarily used for carpet underlay.

Prior to the promulgation of the NESHAP for major sources of foam production (40 CFR part 63, subpart III) in 1998, we estimated that there were 78 slabstock foam facilities in the U.S. and 228 molded foam production facilities. A recent estimate is that there are 36 rebond foam facilities.

The Flexible Polyurethane Foam Fabrication Operations area source category includes processes engaged in cutting, bonding, and/or laminating pieces of flexible polyurethane foam together or to other substrates. Typical bonding techniques include gluing, taping, and flame lamination.

Foam fabrication adhesive use operations may use methylene chloride-based adhesives to adhere pieces of foam together. Most foam fabrication adhesives are applied by workers using spray guns. It is typically performed in large open rooms, with work stations spaced along a conveyor which moves the pieces of foam to be glued together.

Loop slitter adhesive use is a specialized type of foam fabrication adhesive use. Loop slitters are equipment at slabstock foam production and fabrication facilities that are used to slice large foam buns into thin sheets. Adhesive is used to attach the ends of the foam buns to one another before they are mounted on the loop slitter. The amount of adhesive used for loop slitters is relatively low because the adhesive is not applied continuously, just once or twice per shift when the foam buns are loaded onto the loop slitter.

Flame lamination refers to the bonding of foam to other substrates (i.e., cloth, foam, plastic, and other materials) where the bonding agent is scorched or melted foam. Thin sheets of foam are passed under a flame which scorches the foam surface and makes it sticky. The tacky foam sheet is then applied to a foam or fabric substrate.

All slabstock foam production plants perform foam fabrication, but there are also independently operated foam fabrication facilities. There is no foam fabrication trade association, so we do not have a good estimate of the number of foam fabrication facilities in the U.S. Prior to the promulgation of subpart III, EPA estimated that there were loop slitters at 40 slabstock foam production

facilities in the U.S. and 21 flame lamination facilities.

*B. What are the production processes and emissions points for flexible polyurethane foam production and fabrication?*

Both the Flexible Polyurethane Foam Production and Flexible Polyurethane Fabrication Operations area source categories were listed for regulation due to emissions of the urban HAP methylene chloride. Historically, methylene chloride was the only urban HAP used at foam production and foam fabrication facilities. Slabstock foam production facilities used methylene chloride as an auxiliary blowing agent (ABA) to control the density and other properties of the foam as it expanded during the pouring process. Methylene chloride was also used as an equipment cleaner, in particular for mix heads. Currently, almost all slabstock foam producers have discontinued any use of

methylene chloride. A small number of molded and rebond foam facilities previously used methylene chloride in mold release agents and some molded foam facilities used it as a mix-head cleaner.

Foam fabricators used methylene chloride-based adhesives to adhere pieces of foam to one another. Flame laminators have never used methylene chloride.

*C. What are the proposed requirements for area sources?*

1. Applicability and Compliance Dates

This proposed NESHAP applies to both new and existing flexible foam production and flexible foam fabrication plants that are area sources. The owner or operator of an existing source would be required to comply with the area source NESHAP by the date of publication of the final rule in the **Federal Register**. The owner or operator

of a new source would be required to comply with the area source NESHAP by the date of publication of the final rule in the **Federal Register** or at startup, whichever is later.

2. Proposed Emission Standards

Table 1 of this preamble summarizes the various foam production and fabrication area sources covered by this proposed rule and the corresponding proposed regulatory strategies. As shown in Table 1 of this preamble, slabstock foam producers may still use limited amounts of methylene chloride as an auxiliary blowing agent. The technologies determined to be GACT for this industry significantly reduce, but do not always eliminate the use of methylene chloride as an auxiliary blowing agent. Methylene chloride use is prohibited for other uses at foam production and foam fabrication facilities.

TABLE 1.—FOAM PRODUCTION AND FABRICATION PROCESSES AND CORRESPONDING PROPOSED REGULATIONS

Area source types	Proposed regulation
1. Slabstock polyurethane foam production.	a. Emission limits for methylene chloride used as an auxiliary blowing agent (ABA); b. Controls on storage vessels; c. Management practices for equipment leaks; and d. Prohibition on use of methylene chloride as an equipment cleaner.
2. Molded polyurethane foam production.	OR Eliminate use of methylene chloride in slabstock foam production processes.
3. Rebond foam production .....	Prohibit use of methylene chloride as mold release agent.
4. Foam fabrication adhesive use ..	Prohibit use of methylene chloride adhesives.

For slabstock foam production area sources, we are proposing emissions limits and management practices to reduce methylene chloride emissions from the production line, storage tanks, leaking equipment, and equipment cleaning. Emissions limits for methylene chloride used as an ABA are based on a formula which varies depending on the grades of foam being produced. Vapor balance systems or carbon beds would be required for methylene chloride storage vessels. The proposed management practices require plants to identify and correct leaking pumps and other equipment in methylene chloride service. Specifically, owners or operators would check periodically for equipment leaks (from quarterly for pumps and valves to annual for connectors) using EPA Method 21 (40 CFR part 60, appendix A). Leaks, which are defined as a reading of 10,000 parts per million (ppm) or greater, must be corrected within 15 days of when they are detected. The use of methylene chloride

to clean mix heads and other equipment would be prohibited.

Slabstock foam facilities that do not use any methylene chloride at the facility would not be subject to these emission limitations and management practices. Such facilities would only need to submit a one-time report.

This proposed rule prohibits the use of methylene chloride-based mold release agents at molded and rebond foam facilities, methylene chloride-based equipment cleaners at molded foam facilities, and methylene chloride-based adhesives for foam fabrication.

3. Compliance Requirements

Slabstock foam area sources continuing to use methylene chloride would be required to monitor the HAP added at slabstock production mixheads and the HAP contained in and added to HAP ABA storage tanks. Plants using carbon adsorber systems to control emissions from HAP ABA storage tanks would be required to monitor the HAP content of exhaust streams from outlet vents. Plants using a recovery device to

reduce methylene chloride emissions would be required to comply with a recovered HAP ABA monitoring and recordkeeping program.

The owner or operator would be required to submit semiannual reports containing information on allowable and actual HAP ABA emissions, carbon adsorbers on storage tanks, and equipment leaks. Owners and operators would also be required to submit annual compliance certifications. Records would be required to demonstrate compliance, including a daily operating log of foam runs containing the grades of foam produced and related data, and records related to storage tanks and equipment leaks. This proposed NESHAP also includes a simpler facility-wide compliance option that only requires that the facility measure the total amount of methylene chloride used at the facility. Slabstock foam plants that do not use any methylene chloride would be required to submit a one-time certification as part of their notification of compliance status.

Molded foam, rebond foam, and foam fabrication facilities which operate loop slitters would be required to prepare, and keep on file, compliance certifications which certify that the facility is not using the prohibited methylene-chloride based products and will not use them in the future. The plants would also maintain records documenting that the products they are using for the specific purposes do not contain any methylene chloride. These can be records that would be kept in the absence of this proposed rule such as adhesive usage information and Material Safety Data Sheets. Foam fabrication plants which do not operate loop slitters would have no compliance certification or recordkeeping requirements.

The owner or operator of each slabstock foam affected source that continues to use methylene chloride and, therefore, would be subject to the methylene chloride emissions limits, would be required to comply with several requirements of the General Provisions in 40 CFR part 63, subpart A. However, because of the intermittent nature of the slabstock foam process, we are not proposing to require that affected sources comply with the requirements for SSM plans and reports in 40 CFR 63.6(e)(3).

*D. What is our rationale for selecting the proposed standards for area sources?*

1. Selection of Proposed Standards

When the NESHAP for major sources of polyurethane foam production in 40 CFR part 63, subpart III was promulgated in 1998, we estimated that there were 78 slabstock foam facilities, and that all of these facilities were major sources. The NESHAP requirements, along with the revisions to the Occupational Safety and Health Administration (OSHA) permissible exposure and short-term exposure limits for methylene chloride (63 FR 50711, September 22, 1998), caused slabstock foam facilities to investigate, evaluate, and install technologies to reduce or eliminate the use of methylene chloride as an ABA at their facilities. These technologies include alternative formulations to reduce the amount of methylene chloride ABA needed, alternative non-HAP ABAs (acetone, liquid carbon dioxide), controlled or variable pressure foaming, and forced cooling. Based on recent contacts with the industry, we have verified that every known slabstock facility has converted their process to utilize one of these technologies. In many cases, these changes were instituted prior to the compliance date for subpart III, making

the facilities area sources. As these technologies have been universally applied to major and area source slabstock foam production facilities, we have no reason to believe that these emissions reduction technologies are infeasible or inappropriate for area sources. Consequently, we propose to conclude that emissions limitations based on the application of these technologies are generally available control technology (GACT) for new and existing area sources.

Because the installation and operation of several of these pollution prevention technologies have resulted in the near total elimination of the use of and emissions of methylene chloride at slabstock foam production facilities, we have included a provision in this proposed rule that allows slabstock facilities that do not use any methylene chloride to submit a one-time report certifying that they do not use, and will not use in the future, any methylene chloride. We included this provision to reduce the recordkeeping and reporting burden for these facilities.

We are also aware that methylene chloride usage has been eliminated at many molded foam and rebond foam production facilities. Therefore, we have no reason to believe that the use of non-methylene chloride mold release agents and cleaners at molded and rebond foam production facilities is infeasible or inappropriate for area sources. Therefore, we determined that a prohibition of methylene chloride mold release agents and cleaners at molded and rebond foam production facilities is GACT for new and existing sources. While we are not aware of any area source molded foam or rebond foam facility that is currently using methylene chloride-based mold release agents or cleaners, we believe that it is appropriate to propose a prohibition on the use of these products to ensure that no methylene chloride is emitted from these facilities in the future.<sup>5</sup>

The changes to the OSHA permissible exposure and short-term worker exposure limits for methylene chloride had an even more significant impact on the flexible polyurethane foam fabrication source category, as it made it infeasible to continue to use methylene chloride-based adhesives for most foam fabrication operations. Current information indicates that owners and operators of foam fabrication sources have eliminated the use of methylene

<sup>5</sup> Flame lamination foam fabrication facilities have never used, and thus never emitted, any methylene chloride and were not included in the listed category. Therefore, this proposed rule does not contain any emissions limitations for flame lamination facilities.

chloride-based adhesives. (Additional details are provided in the background information for this industry in Docket ID No. EPA-HQ-OAR-2006-0897.) The most common alternatives being used are acetone-based and water-based adhesives. Therefore, we have no reason to believe that the use of non-methylene chloride-based adhesives for foam fabrication applications is infeasible or inappropriate for area sources as a generally available management practice. In addition, because of the nature of the adhesives application process described above, we are not aware of control technologies or management practices that could be employed to limit methylene chloride emissions in foam fabrication operations. Consequently, we are proposing that a prohibition of the use of adhesives containing methylene chloride is GACT for foam fabrication operations. We are requesting comments on this proposed prohibition.

Among other things, we are asking for comment on the availability of cost effective alternatives to methylene chloride adhesives. We are also requesting comments on whether and under what circumstances methylene chloride-based adhesives (e.g., in small specialty applications) are being used or might be used by the foam fabrication industry, and what quantities are or might be involved in such applications. We also request information on any control technologies or management practices used to limit emissions of methylene chloride in the application of the methylene chloride-based adhesives and any cost information associated with such control approaches.

2. Selection of Proposed Compliance Requirements

For slabstock foam production facilities that continue to use methylene chloride, we concluded that requirements for monitoring and recording the amount of methylene chloride used are sufficient to ensure compliance with the proposed emissions limitations.

For slabstock foam production facilities that have eliminated the use of methylene chloride and are exempt from the emissions limitations in this proposed rule, we are proposing to require that owners or operators submit a one-time notification certifying that they do not use any methylene chloride and will not use it in the future as their notification of compliance status report.

In order to demonstrate compliance with the prohibition of the use of methylene chloride based mold release agents and cleaners for molded and rebond processes, we are proposing to



require preparation of a compliance certification, signed by a responsible official and kept on file, indicating that the facility has ceased the use of these prohibited products. The plant owner or operator would be required to maintain adhesive usage records and Material Safety Data Sheets or other documentation to show that no methylene chloride-based products are being used.

Currently available information from the foam fabrication industry and adhesive manufacturers suggests that it is not possible for typical foam fabrication operations to use methylene chloride-based adhesives and comply with OSHA permissible exposure and short-term worker exposure limits for methylene chloride. Because we assume that compliance with these OSHA standards is being achieved through the elimination of the use of methylene chloride-based adhesives, we do not believe that additional reporting or recordkeeping is necessary to demonstrate compliance with the proposed prohibition of the use of methylene-chloride based adhesives. Therefore, this proposed rule contains no compliance requirements for most foam fabrication affected sources.

However, unlike typical foam fabrication applications, we believe it may be possible for loop slitters to use methylenechloride—based adhesives and still comply with the OSHA worker exposure limits. This is because loop slitter adhesive application is brief and intermittent, typically not occurring more than once during a single shift. As a result, worker exposure is also brief and intermittent. Thus, it is possible that some loop slitter facilities could meet the OSHA time-weighted average exposure limitation without changing any of their normal procedures. Additionally, we believe that if compliance with the OSHA requirements could not be achieved without changing normal operating procedures, there are feasible measures that could be implemented to achieve compliance. For instance, the loop slitter adhesive could be applied by workers wearing respiration equipment, or a hood or other ventilation equipment could be added to the adhesive application station. Because of these possibilities, loop slitter operations using methylene chloride adhesives have the potential to meet the worker exposure limits set by OSHA, but still use and emit methylene chloride.

Due to this possibility, we are proposing to require that flexible polyurethane foam fabrication affected sources operating loop slitters prepare

and keep on file a compliance certification, signed by a responsible official, indicating that the facility does not use any methylene chloride and will not use it in the future.

We are not proposing to apply the SSM requirements in 40 CFR 63.6(e)(3) to flexible polyurethane foam production and fabrication area sources. For slabstock facilities that elect not to use any methylene chloride, and for molded facilities, rebond facilities, and loop slitters that are prohibited from using methylene chloride-based products, SSM periods will have no impact on methylene chloride emissions.

There are also fundamental problems in applying the General Provision requirements for SSM to slabstock foam production facilities that continue to use methylene chloride. The rationale for not subjecting area source slabstock foam plants to the SSM requirements was laid out at promulgation of subpart III, which exempted major sources from these provisions.

The fundamental problem in applying the General Provisions SSM provisions to flexible polyurethane foam production facilities is defining a startup and a shutdown. The foam production process is intermittent in nature and, based on the EPA's knowledge of the industry, every foam production process will undergo at least one routine "startup" and one routine "shutdown" per day. The EPA never intended that these routine activities be addressed by the SSM requirements.

The intent of the SSM plan is to identify methods to reduce excess emissions that occur during these events when air pollution is emitted in quantities greater than the standard allows. Given the comprehensive approach of the adopted sections of subpart III to regulate emissions by restricting the amount of HAP used, EPA does not believe that, for foam production facilities, periods of SSM provide the opportunity for emissions not already anticipated.

## VII. Proposed Area Source NESHAP for Lead Acid Battery Manufacturing

### A. What area source category is affected by the proposed NESHAP?

The Lead Acid Battery Manufacturing area source category includes plants that manufacture batteries from lead, lead oxide paste, and sulfuric acid. These may be either of two types of batteries: (1) Starting, lighting, and ignition (SLI) batteries primarily used in automobiles, or (2) industrial and traction batteries. Industrial batteries include those used for uninterruptible power supplies and

traction batteries are used to power electric vehicles such as forklifts.

We estimate that there are approximately 58 lead acid battery manufacturing area sources operating in the U.S. Many of these area sources are subject to the NSPS for lead acid battery manufacturing plants in 40 CFR part 60, subpart KK. Subpart KK applies to all lead acid battery manufacturing plants constructed or modified since 1982 if they produce or have the design capacity to produce in one day batteries containing an amount of lead equal to or greater than 5.9 megagrams (6.5 tons).

### B. What are the production processes and emissions points at facilities that manufacture lead acid batteries?

The lead acid battery manufacturing process includes preparing battery grids through stamping or casting lead. Lead oxide paste is added to the grids in the grid pasting operation creating plates that are cured and assembled into a battery. Batteries are then charged using sulfuric acid in the forming operations. Lead oxide may be prepared by the battery manufacturer, as is the case for many larger battery manufacturing plants, or may be purchased from a supplier.

The lead acid battery manufacturing area source category was listed for regulation due to emissions of the urban HAP lead, which is used as a primary component of a battery. Cadmium, another urban HAP emitted in trace amounts, was also identified in the listing of the lead acid battery manufacturing area source category. Cadmium and other trace urban HAP metals that are emitted by lead acid battery manufacturing plants (arsenic, beryllium, chromium, manganese, and nickel) are controlled by the same devices that control lead emissions.

### C. What are the proposed requirements for area sources?

#### 1. Applicability and Compliance Dates

The proposed NESHAP apply to both new and existing lead acid battery manufacturing plants that are area sources. We are not aware of any major source lead acid battery manufacturing plants. We are proposing that owners or operators of existing sources comply with all the requirements of the area source NESHAP no later than 1 year after the date of publication of the final rule in the **Federal Register**. The owner or operator of a new source would be required to comply with the area source NESHAP on the date of publication of the final rule in the **Federal Register** or at startup, whichever is later.

## 2. Proposed Emissions Standards

We are proposing to adopt as the NESHAP for the lead acid battery manufacturing area source category the numerical emissions limits for grid casting, paste mixing, three-process operation, lead oxide manufacturing, lead reclamation, and other lead emitting processes in 40 CFR 60.372 of the NSPS for lead acid batteries. These lead discharge limits are:

- 0.40 milligram of lead per dry standard cubic meter of exhaust (mg/m<sup>3</sup>) from grid casting facilities,
- 1.00 mg/m<sup>3</sup> from paste mixing facilities,
- 1.00 mg/m<sup>3</sup> from three-process operations,
- 5.0 mg per kilogram of lead feed from lead oxide manufacturing facilities,
- 4.50 mg/m<sup>3</sup> from lead reclamation facilities, and
- 1.0 mg/m<sup>3</sup> from any other lead-emitting operations.

We are also proposing to adopt as the NESHAP for the lead acid battery manufacturing area source category the opacity limits from the lead acid battery NSPS. The opacity must be no greater than 5 percent from lead reclamation facilities and no greater than 0 percent from any affected facility except lead reclamation facilities.

## 3. Compliance Requirements

We are proposing to include in this proposed NESHAP the monitoring, testing, recordkeeping, and reporting requirements in the NSPS for lead acid batteries. This proposed NESHAP requires controls for lead emissions from the paste mixing, three-process operation, lead oxide manufacturing, grid casting, lead reclamation processes, and other lead-emitting processes. The owner or operator would be required to submit quarterly reports containing information on emissions that exceed the applicable limits. Records would be required to demonstrate compliance. We are also proposing to adopt the testing, monitoring, recordkeeping, and reporting requirements in the part 60 General Provisions (40 CFR part 60, subpart A) and the initial notification and notification of compliance requirements in the part 63 General Provisions (40 CFR part 63, subpart A). We have explicitly identified in the proposed NESHAP the applicable General Provisions of both 40 CFR parts 60 and 63.

The proposed NESHAP allows existing plants to utilize previously conducted performance tests, when they are representative of current conditions, to demonstrate compliance. Plants

without representative prior performance tests are required to conduct performance tests by 180 days after the compliance date.

### *D. What is our rationale for selecting the proposed standards for area sources?*

#### 1. Selection of Proposed Standards

The NSPS applies to all lead acid battery manufacturing plants constructed or modified since 1982 if they produce or have the design capacity to produce in one day batteries containing an amount of lead equal to or greater than 5.9 megagrams (6.5 tons). Many existing lead acid battery facilities are subject to the NSPS and use fabric filters and impingement scrubbers to meet the lead emissions limits in the NSPS. In addition, through discussions with the industry trade organization, we have concluded that the existing facilities, whether they are subject to the NSPS or not, have installed fabric filters or other control devices that will allow them to meet the standard.

Therefore, we have no reason to believe that the conventional control techniques employed to meet the emissions limits in the NSPS are infeasible or inappropriate for new or existing area sources. We have determined that the emissions control requirements in the NSPS for lead acid battery manufacturing are GACT for new and existing sources in the lead acid battery manufacturing area source category.

#### 2. Selection of Proposed Compliance Requirements

We have reviewed the compliance requirements in the NSPS for lead acid batteries and the NSPS General Provisions (40 CFR part 60, subpart A) applicable to this proposed NESHAP and concluded that these requirements are sufficient to ensure compliance with the proposed emissions limit standards. Therefore, we are proposing to adopt the NSPS testing, monitoring, and recordkeeping requirements in this proposed rule.

The part 60 General Provisions are necessary for effective application of the lead acid battery NSPS and are therefore incorporated into this proposed rule as well. We are also incorporating certain provisions in the NESHAP General Provisions (40 CFR part 63, subpart A) to address aspects of this proposed rule not covered by the part 60 General Provisions.

## VIII. Proposed Area Source NESHAP for Wood Preserving

### *A. What area source category is affected by the proposed NESHAP?*

The Wood Preserving area source category includes facilities that use pressure or thermal processes to impregnate chemicals into wood to a depth that will provide effective long-term resistance to attack by fungi, bacteria, insects, and marine borers. As most sources in this source category are minor sources, few are subject to State air emissions regulations or permit requirements.

Existing facilities in the wood preserving source category are currently well controlled in terms of emissions of the urban HAP metals chromium and arsenic as a result of a voluntary decision by the industry to discontinue certain specified uses of chromated copper arsenate (CCA). The discontinued uses include dimensional lumber and wood used in play structures, decks, picnic tables, landscaping timbers, residential fencing, patios, walkways, and boardwalks. The voluntary agreement has reduced the usage and emissions of arsenic and chromium compounds from CCA treatment facilities by more than 80 percent. On March 17, 2003, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), a cancellation order was signed in response to the use terminations and cancellations voluntarily requested by the registrants of wood preservative pesticide products containing CCA. Under the cancellation order, as of December 31, 2003, newly produced CCA may only be used for preservative treatment of a limited number of use categories of forest products (e.g., lumber and timber for marine construction for salt water use; wood for highway construction; piles; poles; agricultural posts; and treated wood used as structural members on farms). The use of CCA has been effectively eliminated from household commodities such as decking as a result of the FIFRA cancellation order. Household commodities such as decking are now generally treated with waterborne copper-based wood preservative systems known as ammoniacal copper quat (ACQ) or copper azole (CA). These preservatives do not contain arsenic or chromium, or any other urban HAP as active ingredients. (See Docket Item 0001 "Background on the Wood Preserving Industry" in Docket ID No. EPA-HQ-OAR-2006-0897.)

With regard to dioxin emissions, pursuant to FIFRA, EPA issued a notice

on the wood preservative uses of pentachlorophenol to establish reliable and enforceable methods for implementing certified limits for hexachlorodibenzo-p-dioxin (HxCDD) and 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD or dioxin) (52 FR 140, January 2, 1987). Per the EPA notice, levels of 2,3,7,8-TCDD are not allowed to exceed 1 part per billion (ppb) in any product, and any manufacturing-use pentachlorophenol has to have HxCDD levels below an average of 2 ppm over a monthly release or a batch level limit of 4 ppm. The pentachlorophenol registrant has to submit monthly analyses to EPA to demonstrate compliance with these requirements.

Industry representatives have reported there is no current use of methylene chloride by the wood preserving industry. In 1992, its use as a solvent system was removed from the standards of the American Wood Preservers' Association, which govern the treatment of wood products.

All wood preserving plants currently in operation are area sources. We estimate that there are approximately 393 wood preserving area sources operating in the U.S. and expect that new facilities will be built in the coming years. In this rule, we are proposing standards for both new and existing area sources.

*B. What are the production processes and emissions points at wood preserving facilities?*

Wood preserving or treatment is accomplished by either pressure or thermal processes. To initiate either process, wood products are debarked, sawed, and conditioned. More than 95 percent of all treated wood is preserved through pressurized processes. These processes are performed inside an enclosed vessel and involve the application of pneumatic or hydrostatic pressure to expedite the movement of preservative liquid into the wood.

In a thermal treatment process, the wood is exposed to the preservative in an open vessel. The thermal process involves exposing wood to a heated preservative for 6 to 12 hours followed by exposure to the preservative at ambient temperature for 2 to 4 hours. According to industry representatives, there are currently only three facilities using the thermal process to treat the bottom portion (i.e., the 6 to 8 feet that will be below ground) on certain types of utility poles.

There are two general classes of wood preservatives: oils, such as creosote and petroleum solutions of pentachlorophenol (also called "penta" or "PCP") and copper naphthanate, and

waterborne salts that are applied as water solutions. Treated wood is used throughout the U.S. in a variety of capacities, including utility poles, lumber and timber, railroad ties, fence posts, marine pilings, plywood, and other miscellaneous products. By extending the service life of available wood through treatment with chemicals, wood treatment reduces the demands on forestry resources, reduces operating costs in industries such as utilities and railroads, and helps ensure safe working conditions where timbers are used as support structures.

The urban HAP emitted from wood preserving operations that were the basis for the source category listing are arsenic, chromium, methylene chloride, and dioxins. These HAP may be released from the treatment process or an opening or leak in the process equipment. Significant effort is made by the industry to minimize any excess preservative that might contribute to emissions because the preservative can be as much as one-third of the total product cost. As a result, almost all wood preservation employing a pressure process takes place in a closed retort. A retort is an airtight pressure vessel, typically a long horizontal cylinder, used for the pressure impregnation of wood products with a liquid wood preservative. Proper use of a retort or similar vessel minimizes the loss of excess preservative and thereby limits HAP emissions.

All of the thermal treatment processes that have been identified by industry utilize air scavenging systems to capture and control emissions coming from the process treatment vessel during the treatment process.

After the preservative has been impregnated in the wood, the treated wood is set out to dry over a drip pad to collect preservative not absorbed during the treatment process. Regulations promulgated pursuant to the Resource Conservation and Recovery Act prohibit the presence of any free preservative drippage from products after they leave the process drip pad.

*C. What are the proposed requirements for area sources?*

1. Applicability and Compliance Dates

The proposed NESHAP apply to both new and existing wood preserving plants that are area sources. Because existing area sources are already complying with the proposed standards, we are proposing that owners or operators of existing sources comply with all the requirements of the area source NESHAP by the date of

publication of the final rule in the **Federal Register**. The owner or operator of a new source would be required to comply with the area source NESHAP by the date of publication of the final rule in the **Federal Register** or at startup, whichever is later.

2. Proposed Standards

We are proposing to adopt as the NESHAP for the Wood Preserving area source category the control technologies and management practices currently used by most facilities within the wood preserving industry. Facilities using a pressure treatment process would be required to use a retort or similarly enclosed vessel for the preservative treatment of wood involving any wood preservatives containing chromium, arsenic, dioxins, or methylene chloride. Facilities using a thermal treatment process involving any wood preservatives containing chromium, arsenic, dioxins, or methylene chloride would be required to use process treatment tanks equipped with air scavenging systems to capture and control air emissions.

These proposed standards would also require facility operators to minimize emissions from process tanks and equipment (e.g., retorts, other enclosed vessels, and thermal treatment tanks), as well as storage, handling, and transfer operations. These standards would have to be documented in a management practices plan that must include, but not be limited to, the following activities:

- Minimizing preservative usage;
  - Maintaining records on the type of treatment process and types and amounts of wood preservatives used at the facility;
    - For the pressure treatment process, maintaining charge records identifying pressure reading(s) inside the retorts (or similarly enclosed vessels, if applicable);
    - For the thermal treatment process, maintaining records that an air scavenging system is installed and operated properly during the treatment process;
    - For the pressure treatment process, fully draining the retort prior to opening the retort door;
      - Storing treated wood product on drip pads or in a primary containment area to convey preservative drippage to a collection system until drippage has ceased;
      - Promptly collecting any spills; and
      - Performing relevant corrective actions or preventative measures in the event of a malfunction before resuming operations.
- Existing written standard operating procedures may be used as the

management practices plan if those procedures include the minimum activities required for a management practices plan.

### 3. Compliance Requirements

Plants would be required to comply with limited notification requirements in the part 63 General Provisions (40 CFR part 63, subpart A). This proposed rule establishes the content and deadlines for submission of the notifications. We have explicitly identified in the proposed NESHAP the applicable General Provisions of 40 CFR part 63.

#### *D. What is our rationale for selecting the proposed standards for area sources?*

##### 1. Selection of Proposed Standards

Over the past 15 years, the wood preserving industry has undergone several changes related to the types of preservatives used for certain applications and the associated emissions with wood preservatives. Prior to 2003, much of the urban HAP metal emissions from the wood preservation area source category came from the preservative treatment of wood using CCA.

In determining GACT for the wood preserving source category, we identified different management practices and control technologies used to reduce air emissions from pressure treatment processes and thermal treatment processes. Under section 112(d)(1) of the CAA, EPA may “distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards \* \* \*.” There are basic differences between the two treatment processes in the type of process vessel used, the mechanisms affecting the potential generation of air emissions (pressure versus thermal), and the way emissions are controlled. Consequently, we are proposing a GACT standard for the pressure treatment subcategory and a GACT standard for the thermal treatment subcategory.

For wood treatment facilities using pressure treatment processes, any metal HAP that are included as part of the wood preservative formulation (such as CCA) are impregnated into the wood product inside a pressurized vessel (retort), and, therefore, significant air emissions do not occur during the process. After the retort is returned to ambient pressure, excess preservative is drained back into the storage tanks and the treated product is stored on drip pads prior to shipment. Metal HAP are normally released into the environment as PM and will not enter the air during

the drying process. As demonstrated by the 2004 TRI for this industry, nationwide air emissions of all metal HAP are negligible (i.e., arsenic = 0.0002 pounds and chromium compounds = 0.0003 pounds). We have not identified any other management practices or control technologies that would provide additional emissions reductions in a cost effective manner. Therefore, GACT for pressure treatment processes is the management practices described above that are being used to minimize emissions from the process equipment and manufacturing operations.

The same type of retort process used in the application of CCA is used for most wood preservatives containing pentachlorophenol and emissions of dioxin are likewise limited as a result. Dioxin also has a very low vapor pressure, making it less likely to volatilize into the air during the drying process. In fact, the 2004 TRI shows less than 0.005 grams of dioxin reported nationwide for the wood preserving industry. We have not identified any other management practices or control technologies that would provide additional emissions reductions in a cost effective manner for facilities using pressure treatment processes. Therefore, the management practices that are being used to minimize emissions from the retort or other similarly enclosed process equipment associated with the pressure treatment processes are GACT.

For wood treatment facilities using thermal processes, the wood product is placed inside a treatment tank that may contain wood preservative with one of the urban HAP for which this category was listed. At the three existing facilities using the thermal process, air emissions are captured and controlled by an air scavenging system, which consists of a capture system (e.g., skirting around the tank) vented to a vapor recovery tank that collects condensate from the vapors. Therefore, no significant air emissions occur during the thermal treatment process.

We have not identified any other management practices or control technologies that would provide additional emissions reductions in a cost effective manner for thermal treatment processes. Therefore, GACT for thermal treatment facilities entails using air scavenging systems to control emissions from the process treatment tanks associated with thermal processes consistent with the practices described above.

Industry representatives also informed us that methylene chloride was replaced in their processes several years ago with different solvent carriers. The use of methylene chloride as a

solvent system was removed from the standards of the American Wood Preservers' Association in 1992. (See Docket Item 2006-0897-0001, “Background on the Wood Preserving Industry” in Docket ID No. EPA-HQ-OAR-2006-0897.) There have been no emissions of methylene chloride reported in the TRI for the industry since 1992. However, because we cannot be certain that a new use for methylene chloride will not be developed in the future, we are proposing to require the same standards for a preservative containing methylene chloride.

Based on our evaluation of the industry emissions and not being able to identify other cost effective management practices or control technologies that would provide additional emissions reductions involving chromium, arsenic, dioxins, or methylene chloride, we are proposing to establish standards based on current management practices and control technologies to minimize air emissions.

##### 2. Selection of Proposed Compliance Requirements

The proposed standards require a minimal level of monitoring and recordkeeping to demonstrate compliance. For this reason, we are proposing to base the compliance requirements for new and existing area sources on certain notification requirements in the part 63 General Provisions. The initial notification of applicability required by 40 CFR 63.9(b)(2) would require the owner or operator to identify the plant as an area source subject to the standards. The notification of compliance status would require the owner or operator to certify compliance with the standards. No other recordkeeping or reporting requirements in the General Provisions would apply.

### **IX. Proposed Exemption of Certain Area Source Categories From Title V Permitting Requirements**

Section 502(a) of the CAA provides that EPA may exempt one or more area sources from the requirements of title V if EPA finds that compliance with such requirements is “impracticable, infeasible, or unnecessarily burdensome” on such area sources. EPA must determine whether to exempt an area source from title V at the time we issue the relevant section 112 standard (40 CFR 70.3(b)(2)). We are proposing in this action to exempt acrylic and modacrylic fibers production, flexible polyurethane foam production and fabrication, lead acid battery manufacturing, and wood preserving

area source categories from the requirements of title V. These area source categories would not be required to obtain title V permits solely as a function of being the subject of the proposed NESHAP; however, if they were otherwise required to obtain title V permits, such requirement(s) would not be affected by the proposed exemption.

Consistent with the statute, EPA has found that compliance with title V permitting is “unnecessarily burdensome” for acrylic and modacrylic fibers production, flexible polyurethane foam production and fabrication, lead acid battery manufacturing, and wood preserving area sources. EPA’s inquiry into whether this criterion was satisfied was based primarily upon consideration of the following four factors: (1) Whether title V would result in significant improvements to the compliance requirements that we are proposing for these area source categories; (2) whether title V permitting would impose a significant burden on these area sources and whether that burden would be aggravated by any difficulty these sources may have in obtaining assistance from permitting agencies; (3) whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources; and (4) whether there are implementation and enforcement programs in place that are sufficient to assure compliance with these NESHAP without relying on title V permits.

EPA also considered, consistent with the guidance provided by the legislative history of CAA section 502(a),<sup>6</sup> whether exempting area source categories would adversely affect public health, welfare or the environment. We have considered the factors above in determining whether to include an exemption from title V in the proposed NESHAP for acrylic and modacrylic fibers production, flexible polyurethane foam production and fabrication, lead acid battery manufacturing, and wood preserving area sources.

The first factor is whether title V would result in significant improvements to the compliance requirements we are proposing for these area source categories. We looked at the compliance requirements of the

proposed NESHAP to see if they were substantially equivalent to the monitoring, recordkeeping and reporting requirements of title V (see 40 CFR 70.6 and 71.6) that we believe are important for assuring compliance with the NESHAP. The purpose of this review was to determine if title V is “unnecessary” to improve compliance with these NESHAP. A finding that title V would not result in significant improvements to the compliance requirements in the proposed NESHAP would support a conclusion that title V permitting is “unnecessary” for area sources in these categories. One way that title V may improve compliance is by requiring monitoring (including recordkeeping designed to serve as monitoring) to assure compliance with the emissions limitations and control technology requirements imposed in the standard. The authority for adding new monitoring in the permit is in the “periodic monitoring” provisions of 40 CFR 70.6(a)(3)(i)(B) and 40 CFR 71.6(a)(3)(i)(B), which allow new monitoring to be added to the permit when the underlying standard does not already require “periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring).” In addition, title V imposes a number of recordkeeping and reporting requirements that may be important for assuring compliance. These include requirements for a monitoring report at least every 6 months, prompt reports of deviations, and an annual compliance certification. See 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3), 40 CFR 70.6(c)(1) and 40 CFR 71.6(c)(1), and 40 CFR 70.6(c)(5) and 40 CFR 71.6(c)(5).

We examined the first factor for each of the source categories and determined that a title V permit would not result in significant improvements to the compliance requirements that we are proposing. The following paragraphs discuss each source category separately. To determine whether title V permits would add significant compliance requirements for the Acrylic and Modacrylic Fibers Production area source category, we compared the title V monitoring, recordkeeping, and reporting requirements mentioned above to those requirements in the proposed NESHAP, which adopts the compliance requirements in the State-issued permit for the one area source plant currently in operation. The proposed NESHAP requires CPMS to measure and record the water flow rate to the control device (wet scrubber) every 15 minutes and to determine the

daily average flow rate. Periodic visual inspections of AN storage tanks equipped with a fixed roof in combination with an internal floating roof must be conducted according to the NSPS requirements in 40 CFR part 60, subpart Kb. Because both the continuous and noncontinuous monitoring methods required by the proposed NESHAP would provide periodic monitoring, title V would not add any monitoring to the proposed NESHAP.

We also considered the extent to which title V could enhance compliance through recordkeeping or reporting requirements, including title V requirements for a 6-month monitoring report, deviation reports, and an annual compliance certification in 40 CFR 70.6 and 71.6. The proposed NESHAP for acrylic and modacrylic fibers production requires the plant to determine compliance with daily average operating limits for the water flow rates to each control device on a monthly basis and to submit compliance reports to EPA or the delegated authority on a quarterly basis. Should the daily average water flow rate to a wet scrubber control device fall below the operating limits, the plant must notify EPA or the delegated authority in writing within 10 days of the identification of the exceedance. All area source plants would be required to comply with the requirements for startup, shutdown, and malfunction plans, reports, and records in 40 CFR 63.6(e)(3).

Records are required to demonstrate compliance with the NSPS inspection and repair requirements for storage tanks in 40 CFR part 60, subpart Kb. The information required in the proposed NESHAP is similar to the information that must be provided in the deviation reports and semiannual monitoring reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3).

The proposed NESHAP does not require an annual compliance certification report, which is a requirement of a title V permit. See 40 CFR 70.5(c)(9)(iii) and 40 CFR 71.6(c)(5)(i). EPA believes that the annual certification reporting requirement is not necessary because the quarterly reports are adequate to ensure compliance for existing sources. New sources would submit notifications and reports required by the part 63 General Provisions.

The monitoring, recordkeeping and reporting requirements in the proposed NESHAP for the Acrylic and Modacrylic Fibers Production area source category are substantially equivalent to such requirements under title V. Therefore,

<sup>6</sup> The legislative history of section 502(a) of the Clean Air Act suggests that EPA should not grant title V exemptions where doing so would adversely affect public health, welfare, or the environment. (See Chafee-Baucus Statement of Senate Managers, Environment and Natural Resources Policy Division 1990 CAA Leg. Hist. 905, compiled November 1993.)

we conclude that title V would not result in significant improvements to the compliance requirements we are proposing for this area source category.

To determine whether title V permits would add significant compliance requirements to the proposed NESHAP for Lead Acid Battery Manufacturing, we also compared the title V monitoring, recordkeeping, and reporting requirements to those requirements in the proposed NESHAP, which adopts the compliance requirements in the NSPS. The NSPS requires that a facility using a scrubbing system install, calibrate, maintain, and operate a monitoring device that measures and records the pressure drop across the scrubbing system at least once every 15 minutes. Each facility must demonstrate compliance by either conducting a performance test or submitting the results of a previous performance test conducted using the methods and procedures in the proposed NESHAP. Because both the continuous and noncontinuous monitoring methods required by the proposed NESHAP would provide periodic monitoring, title V would not add any monitoring to the proposed NESHAP.

We also considered the extent to which title V could enhance compliance through recordkeeping or reporting requirements, including title V requirements for a 6-month monitoring report, deviation reports, and an annual compliance certification in 40 CFR 70.6 and 71.6. Records are required to demonstrate compliance. Plants also would be required to comply with the testing, monitoring, recordkeeping, and reporting requirements in the part 60 General Provisions (40 CFR part 60, subpart A). The information required in the proposed NESHAP is similar to the information that must be provided in the deviation reports and semiannual monitoring reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3).

The proposed NESHAP does not require an annual compliance certification report, which is a requirement of a title V permit. See 40 CFR 70.5(c)(9)(iii) and 40 CFR 71.6(c)(5)(i). EPA believes that the annual certification reporting requirement is not necessary because the quarterly reports are adequate to ensure compliance for new and existing sources.

The monitoring, recordkeeping and reporting requirements in the proposed NESHAP for the Lead Acid Battery Manufacturing area source category are substantially equivalent to such requirements under title V. Therefore, we conclude that title V would not

result in significant improvements to the compliance requirements we are proposing for this area source category.

To determine whether title V permits would add significant compliance requirements, we also compared the title V monitoring, recordkeeping, and reporting requirements to those requirements in the proposed NESHAP for Flexible Polyurethane Foam Production and Fabrication area source category. The proposed NESHAP does not contain monitoring or periodic reporting requirements for facilities that have already reduced HAP emissions by complying with the proposed ban on methylene chloride. These provisions are not included in the proposed NESHAP for this area source category because the discontinued use of methylene chloride would reduce urban HAP emissions without the need for continuous or periodic monitoring of equipment or operations. For slabstock foam plants still using methylene chloride, the proposed NESHAP requires the same monitoring that must be performed by major sources. Therefore, title V would not add any monitoring to the proposed NESHAP.

We also considered the extent to which title V could enhance compliance for area sources through recordkeeping or reporting requirements, including title V requirements for a 6-month monitoring report, deviation reports, and an annual compliance certification in 40 CFR 70.6 and 71.6. The proposed NESHAP requires foam plants that have discontinued the use of methylene chloride to certify compliance with the prohibition on methylene chloride. For slabstock foam plants still using methylene chloride, the proposed NESHAP requires the same recordkeeping or reporting that must be performed by major sources. The information required in the proposed reports and records is similar to the information that must be provided in the deviation reports and required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3).

The proposed NESHAP requires a report if a deviation occurs, but does not require periodic compliance reports. The addition of periodic reports for sources that are not subject to monitoring requirements would not result in significant improvements to the compliance requirements we are proposing for this area source category.

The proposed NESHAP does not require an annual compliance certification report, which is a requirement of a title V permit. See 40 CFR 70.5(c)(9)(iii) and 40 CFR 71.6(c)(5)(i). EPA believes that the annual certification reporting

requirement is not necessary because the deviation reports are adequate to ensure compliance for new and existing sources.

To determine whether title V permits would add significant compliance requirements, we also compared the title V monitoring, recordkeeping, and reporting requirements to those requirements in the proposed NESHAP for the Wood Preserving area source category. EPA determined that the good management practices currently used at most facilities during the application of wood preservatives is GACT for this source category. The rule proposes to require recordkeeping and deviation reporting to ensure compliance with the NESHAP. Given the nature of the management practices proposed for this source category, we believe that the recordkeeping and reporting requirements in the rule are sufficient to ensure compliance and find that additional monitoring is not necessary in this instance. The proposed NESHAP does not contain monitoring or periodic reporting requirements because the facilities have reduced HAP emissions by using good management practices as part of their standard method of operation.

The management practices would reduce urban HAP emissions without the need for continuous monitoring of equipment or operations. Therefore, title V would not add any monitoring to the proposed NESHAP. We also considered the extent to which title V could enhance compliance for area sources through recordkeeping or reporting requirements, including title V requirements for a 6-month monitoring report, deviation reports, and an annual compliance certification in 40 CFR 70.6 and 71.6.

The proposed NESHAP also requires wood preserving plants to certify compliance with the management practices identified as GACT. In addition, wood preserving plants must maintain records showing compliance with the required management practices in the proposed NESHAP and report deviations. The information required in the proposed reports and records is similar to the information that must be provided in the deviation reports and required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3). We have determined that title V would not enhance compliance for area sources through additional recordkeeping or reporting requirements.

The second factor we considered is whether title V permitting would impose significant burdens on these area sources and whether that burden would be aggravated by any difficulty

these sources may have in obtaining assistance from permitting agencies. The information collection request (ICR) for parts 70 and 71 describes the title V burdens and costs in the aggregate, and although they do not focus on area sources, they do describe the various activities undertaken by title V sources, including area sources, so many of the same burdens and costs described in the ICR will also apply to area sources. Some examples of this burden include reading and understanding permit program guidance and regulations, completing the permit application, preparing and submitting applications for permit revisions every 5 years, and paying permit fees. We believe that this cost is a significant burden for these area sources.

The third factor we considered is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. Based on our consideration of factor 1 (described above) and factor 4 (described below), we did not identify potential gain in compliance from title V permitting. Therefore, we conclude that the costs of title V permitting for these area source categories are not justified.

The fourth factor we considered is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with these NESHAP without relying on title V permits. A conclusion that these criteria can be met would support a conclusion that title V permitting is "unnecessary" for these area sources. See 70 FR 15254. There are State programs in place to enforce these area source NESHAP. We believe that these programs are sufficient to assure compliance with these NESHAP. In addition, EPA retains authority to enforce these NESHAP anytime under CAA sections 112, 113 and 114. In light of the above, we conclude that title V permitting is "unnecessary" to assure compliance with these NESHAP because the statutory requirements for implementation and enforcement of these NESHAP by the delegated States and EPA are sufficient to assure compliance with these area source NESHAP, in all parts of the U.S., without title V permits. In addition, small business assistance programs required by CAA section 507 may be used to assist area sources that have been exempted from title V permitting. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. These

additional programs supplement and enhance the success of compliance with these area source NESHAP. In light of all of the above, we conclude that there are implementation and enforcement programs in place that are sufficient to assure compliance with these NESHAP without relying on title V permitting.

In addition to evaluating whether compliance with title V requirements is "unnecessarily burdensome", EPA also considered, consistent with guidance provided by the legislative history of section 502(a), whether exempting these area source categories from title V requirements would adversely affect public health, welfare, or the environment. Exemption of these area source categories from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same if a permit were required. Therefore, we conclude that exempting these area sources from title V permitting requirements in these proposed rules would not adversely affect public health, welfare, or the environment.

One of the primary purposes of the title V permitting program is to clarify, in a single document, the various and sometimes complex regulations that apply to sources in order to improve understanding of these requirements and to help sources to achieve compliance with the requirements. In this case, however, we do not believe that a title V permit is necessary for us to understand the requirements applicable to these area sources. This proposal would add new requirements to the NESHAP for new area sources. We have determined that the current requirements for existing area sources reflect GACT and thus adopted them in the proposed rules for existing sources. Furthermore, we do not find the requirements for existing sources to be very complicated to understand or implement. For these reasons, we do not find that title V permitting is necessary to improve understanding of and achieve compliance with these standards.

Based on the above analysis, we conclude that title V permitting would be "unnecessarily burdensome" for the acrylic and modacrylic fibers production, flexible polyurethane foam production and fabrication, lead acid battery manufacturing, and wood preserving area source categories. We are, therefore, proposing that these area source categories be exempt from title V permitting requirements.

## X. Statutory and Executive Order Reviews

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action" because it may raise novel legal or policy issues. Accordingly, EPA submitted this action to OMB for review under Executive Order 12866, and any changes made in response to OMB recommendations have been documented in the docket for this action.

### B. Paperwork Reduction Act

The information requirements in the proposed NESHAP for Acrylic and Modacrylic Fibers Production Area Sources, Carbon Black Production Area Sources, Chemical Manufacturing: Chromium Compounds Area Sources, Flexible Polyurethane Foam Production and Fabrication Area Sources, Lead Acid Battery Manufacturing Area Sources, and Wood Preserving Area Sources have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The ICR document prepared by EPA has been assigned EPA ICR number 2256.01.

The recordkeeping and reporting requirements in the proposed rules are based on the existing permit requirements as well as the information collection requirements in the part 63 General Provisions (40 CFR part 63, subpart A). The recordkeeping and reporting requirements in the General Provisions are mandatory pursuant to section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the information collection requirements for which a claim of confidentiality is made is safeguarded according to CAA section 114(c) and the Agency's implementing regulations at 40 CFR part 2, subpart B.

The proposed information collection requirements for acrylic and modacrylic fibers production are the same as the requirements that are in the current State operating permit for the one existing source. The only new information collection requirements that would apply to this area source would consist of initial notifications and an SSM plan. Any new acrylic and modacrylic fibers production area source would be subject to all information collection requirements in the part 63 General Provisions.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 9 labor hours per year at a cost of \$780 for the one existing acrylic and modacrylic fibers area source. No



capital/startup costs or operation and maintenance costs are associated with the proposed requirements. No costs or burden hours are estimated for new acrylic and modacrylic fibers production area sources because no new area sources are estimated during the next 3 years.

The proposed NESHAP for carbon black production area sources includes testing, monitoring, recordkeeping, and reporting requirements equivalent to current requirements applicable to the existing area source carbon black production facility. The only new information collection requirements that would apply to this area source would consist of initial notifications and SSM plans. Any new carbon black production area source would be subject to all information collection requirements in the part 63 General Provisions.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 9 labor hours per year at a cost of \$780 for the one existing carbon black production area source. No capital/startup costs or operation and maintenance costs are associated with the proposed requirements. No costs or burden hours are estimated for new carbon black production area sources because no new sources are estimated during the next 3 years.

The proposed PM testing, monitoring, recordkeeping, and reporting requirements for existing chromium compounds manufacturing area sources are the same as the requirements that are in the current title V operating permit for the two existing facilities. The only new information collection requirements that would apply to these area sources would consist of initial notifications, SSM plans, and control device inspections at one plant. Any new chromium compounds manufacturing area source would be subject to all information collection requirements in the part 63 General Provisions.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 194 labor hours per year at a cost of \$16,409 for the two existing chromium compounds manufacturing area sources. No capital/startup costs or operation and maintenance costs are associated with the proposed requirements. No costs or burden hours are estimated for new chromium compounds manufacturing area sources because no new area sources are estimated during the next 3 years.

The proposed NESHAP for flexible polyurethane foam production and

fabrication operations area sources requires a one-time notification by slab stock foam facilities that they do not use methylene chloride and records documenting that they do not use methylene chloride. One plant that uses methylene chloride would be subject to additional reporting requirements.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 835 labor hours per year at a cost of \$70,686 for the 500 or more existing flexible foam fabrication and production area sources. No capital/startup costs or operation and maintenance costs are associated with the proposed requirements. No costs or burden hours are estimated for new flexible foam production or fabrication area sources because no new sources are estimated during the next 3 years.

The proposed PM testing, monitoring, recordkeeping, and reporting requirements for new and existing lead acid battery manufacturing area sources are the same as the requirements that are in the NSPS (40 CFR part 60, subpart KK). In addition, new information collection requirements that would apply to these area sources would consist of either an initial performance test or submission of the results of a previous performance test and the requirements in the part 63 General Provisions for initial notifications.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 675 labor hours per year at a cost of \$57,147 for the 58 existing lead acid battery manufacturing area sources. No capital/startup costs or operation and maintenance costs are associated with the proposed requirements. No costs or burden hours are estimated for new lead acid battery manufacturing area sources because no new sources are estimated during the next 3 years.

The proposed NESHAP for wood preserving area sources does not include testing, monitoring, or recordkeeping requirements because they are subject to management practices. The only new information collection requirements that would apply to these existing area sources would consist of initial notifications and records demonstrating compliance with the management practice requirements.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 1,055 labor hours per year at a cost of \$89,324 for approximately 400 existing wood preserving area sources. No capital/startup costs or operation and maintenance costs are associated with the proposed requirements. No

costs or burden hours are estimated for new wood preserving area sources because no new sources are estimated during the next 3 years.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, 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 in 40 CFR part 63 are listed in 40 CFR part 9.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (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 would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of the proposed area source NESHAP on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses found at 13 CFR 121.201 (less than 1,000 employees for acrylic and modacrylic fiber production and chromium compounds manufacturing and less than 500 employees for carbon black production, flexible polyurethane foam production and fabrication, lead-acid battery manufacturing, and wood preserving); (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 the proposed rules on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. There would not be adverse impacts on existing area sources in any of the seven source categories because the proposed rules do not create any new requirements or burdens for existing sources other than minimal notification requirements.

Although the proposed NESHAP contain emissions control requirements for new area sources in all seven source categories, we are not specifically aware of any new sources being constructed now or planned in the next 3 years, and consequently, we did not estimate any impacts for new sources.

We continue to be interested in the potential impacts of the proposed action on small entities and welcome comments on issues related to such impacts.

#### *D. Unfunded Mandates Reform Act*

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

to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the proposed rules 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 one year. Thus, the proposed rules are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the proposed rules do not significantly or uniquely affect small governments. The proposed rules contain no requirements that apply to such governments, impose no obligations upon them, and would not result in expenditures by them of \$100 million or more in any one year or any disproportionate impacts on them. Therefore, the proposed rules are not subject to section 203 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132 (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" are 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."

The proposed rules do not have federalism implications. They would 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 proposed rules impose requirements on owners and operators of specified area sources and not State and local governments. Thus, Executive Order 13132 does not apply to the proposed rules.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175 (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The proposed rules do

not have tribal implications, as specified in Executive Order 13175. They would 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. The proposed rules impose requirements on owners and operators of specified area sources and not tribal governments. Thus, Executive Order 13175 does not apply to the proposed rules.

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

Executive Order 13045, "Protection of Children From Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. These proposed rules are not subject to the Executive Order 13045 because they are based solely on technology performance.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

The proposed rules are not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that these proposed rules are not likely to have any adverse energy effects because energy requirements would remain at existing levels. No additional pollution controls or other equipment that would consume energy are required by the proposed rules.

#### *I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement

Act (NTTAA) of 1995 (Pub. L. 104–113, Section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS.

The proposed rules involve technical standards. The EPA cites the following standards: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, 9, or 22 in 40 CFR part 60, appendix A. The method ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses,” (incorporated by reference—see 40 CFR 63.14) is cited in this proposed rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of the exhaust gas. This part of ASME PTC 19.10–1981 is an acceptable alternative to EPA Method 3B. This ASTM method is a VCS.

Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 5D, 9, or 22. The search and review results are in the docket for these proposed rules.

The search for emissions measurement procedures identified 12 other VCS. The EPA determined that these 12 standards identified for measuring emissions of the HAP or surrogates subject to emissions standards in these proposed rules were impractical alternatives to EPA test methods. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for the determinations for the 12 methods discussed in a memorandum included in the docket for these proposed rules.

For the methods required or referenced by these proposed rules, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures under § 63.7(f) and § 63.8(f) of subpart A of the General Provisions.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs

Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that these proposed rules will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. These proposed rules establish national standards for each area source category.

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

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

Dated: March 22, 2007.

**Stephen L. Johnson,**  
*Administrator.*

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

**PART 63—[AMENDED]**

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

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

**Subpart A—[Amended]**

2. Section 63.14 is amended by revising paragraph (i)(1) to read as follows:

**§ 63.14 Incorporations by reference.**

\* \* \* \* \*

(i) \* \* \*

(1) ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus],” IBR approved for §§ 63.309(k)(1)(iii), 63.865(b), 63.3166(a)(3), 63.3360(e)(1)(iii), 63.3545(a)(3), 63.3555(a)(3), 63.4166(a)(3), 63.4362(a)(3), 63.4766(a)(3), 63.4965(a)(3), 63.5160(d)(1)(iii), 63.9307(c)(2), 63.9323(a)(3), 63.11148(e)(3)(iii), 63.11155(e)(3), 63.11162(f)(3)(iii) and (f)(4), 63.11163(g)(1)(iii) and (g)(2),

63.11410(j)(1)(iii), and Table 5 of subpart DDDDD of this part.

\* \* \* \* \*

3. Part 63 is amended by adding subpart LLLLLL to read as follows:

**Subpart LLLLLL—National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources**

Sec.

**Applicability and Compliance Dates**

63.11393 Am I subject to this subpart?

63.11394 What are my compliance dates?

**Standards and Compliance Requirements**

63.11395 What are the standards and compliance requirements for existing sources?

63.11396 What are the standards and compliance requirements for new sources?

**Other Requirements and Information**

63.11397 What General Provisions apply to this subpart?

63.11398 What definitions apply to this subpart?

63.11399 Who implements and enforces this subpart?

Table 1 to Subpart LLLLLL of Part 63—Applicability of General Provisions to Subpart LLLLLL

**Applicability and Compliance Dates**

**§ 63.11393 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate an acrylic or modacrylic fiber production plant that is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each acrylic or modacrylic fiber plant.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source before April 4, 2007.

(2) An affected source is new if you commenced construction or reconstruction of the affected source on or after April 4, 2007.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

**§ 63.11394 What are my compliance dates?**

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions in this subpart no later than 6 months after the date of publication of the final rule in the **Federal Register**.

(b) If you startup a new affected source on or before the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart not later than the date of publication of the final rule in the **Federal Register**.

(c) If you startup a new affected source after the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the provisions in this subpart upon startup of your affected source.

**Standards and Compliance Requirements****§ 63.11395 What are the standards and compliance requirements for existing sources?**

(a) You must operate and maintain capture or enclosure systems that collect the gases and fumes containing AN released from polymerization process equipment and monomer recovery process equipment and convey the collected gas stream through a closed vent system to a control device.

(b) You must not discharge to the atmosphere through any combination of stacks or other vents captured gases containing AN in excess of the emissions limits in paragraphs (b)(1) and (2) of this paragraph.

(1) 0.2 pounds of AN per hour (lb/hr) from the control device for polymerization process equipment.

(2) 0.05 lb/hr of AN from the control device for monomer recovery process equipment.

(c) If you use a wet scrubber control device, you must comply with the control device parameter operating limits in paragraphs (c)(1) and (2) of this section.

(1) You must maintain the daily average water flow rate to a wet scrubber used to control polymerization process equipment at a minimum of 50 liters per minute (l/min). If the water flow to the wet scrubber ceases, the polymerization reactor(s) must be shut down.

(2) You must maintain the daily average water flow rate to a wet scrubber used to control monomer recovery process equipment at a minimum of 30 l/min.

(d) You must comply with the requirements of the New Source Performance Standard for Volatile

Organic Liquids (40 CFR part 60, subpart Kb) for vessels that store acrylonitrile. The provisions in 40 CFR 60.114b do not apply to this subpart.

(e) You must operate continuous parameter monitoring systems (CPMS) to measure and record the water flow rate to a wet scrubber control device for the polymerization process equipment and the monomer recovery process equipment. The CPMS must record the water flow rate at least every 15 minutes and determine and record the daily average water flow rate.

(f) You must determine compliance with the daily average control device parameter operating limits for water flow rate in paragraph (c) of this section on a monthly basis and submit a summary report to EPA or the delegated authority on a quarterly basis. Should the daily average water flow rate to a wet scrubber control device for the polymerization process equipment fall below 50 l/min or the daily water flow rate to a wet scrubber control device for the monomer recovery process equipment fall below 30 l/min, you must notify EPA or the delegated authority in writing within 10 days of the identification of the exceedance.

(g) You must keep records of each monthly compliance determination for the water flow rate operating parameter limits in a permanent form suitable for inspection and retain the records for at least 2 years following the date of each compliance determination.

(h) You must conduct a performance test for each control device for polymerization process equipment and monomer recovery process equipment subject to an emissions limit in paragraph (b) of this section within 180 days of your compliance date and report the results in your notification of compliance status. You must conduct each test according to the requirements in 40 CFR 63.7 and § 63.1104 of subpart YY. You are not required to conduct a performance test if a prior performance test was conducted using the methods specified in § 63.1104 of subpart YY and either no process changes have been made since the test, or you can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

(i) If you do not use a wet scrubber control device for the polymerization process equipment or the monomer recovery process equipment, you must submit a monitoring plan to EPA or the delegated authority for approval. Each plan must contain the information in paragraphs (i)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with § 63.1104 of subpart YY verifying the performance of the device for reducing AN to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer's instructions for routine and long-term maintenance) and continuous monitoring system.

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emissions limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

(j) If you do not operate a monomer recovery process that removes AN prior to spinning, you must comply with the requirements in paragraph (j)(1), (2), or (3) of this section for each fiber spinning line that uses a spin dope produced from either a suspension polymerization process or solution polymerization process.

(1) You must reduce the AN concentration of the spin dope to less than 100 parts per million by weight (ppmw); or

(2) You must design and operate a fiber spinning line enclosure according to the requirements in § 63.1103(b)(4) of subpart YY and reduce AN emissions by 85 weight-percent or more by venting emissions from the enclosure through a closed vent system to any combination of control devices meeting the requirements in § 63.982(a)(2) of subpart SS; or

(3) You must reduce AN emissions from the spinning line to less than or equal to 0.5 pounds of AN per ton (lb/ton) of acrylic and modacrylic fiber produced.

**§ 63.11396 What are the standards and compliance requirements for new sources?**

(a) You must comply with the requirements in paragraph (a)(1) or (2) of this section for each process vent where the AN concentration of the vent stream is equal to or greater than 50 parts per million by volume (ppmv) and the average flow rate is equal to or greater than 0.005 cubic meters per minute, as determined by the applicability and assessment procedures in § 63.1104 of subpart YY.

(1) You must reduce emissions of AN by 98 weight-percent or limit the concentration of AN in the emissions to no more than 20 ppmv, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting

the requirements for process vents in § 63.982(a)(2) of subpart SS; or

(2) You must reduce emissions of AN by using a flare that meets the requirements of § 63.987 of subpart SS.

(b) You must comply with the requirements in paragraph (b)(1), (2), or (3) of this section for each fiber spinning line that uses a spin dope produced from either a suspension polymerization process or solution polymerization process.

(1) You must reduce the AN concentration of the spin dope to less than 100 parts per million by weight (ppmw); or

(2) You must design and operate a fiber spinning line enclosure according to the requirements in § 63.1103(b)(4) of subpart YY and reduce AN emissions by 85 weight-percent or more by venting emissions from the enclosure through a closed vent system to any combination of control devices meeting the requirements in § 63.982(a)(2) of subpart SS; or

(3) You must reduce AN emissions from the spinning line to less than or equal to 0.5 pounds of AN per ton (lb/ton) of acrylic and modacrylic fiber produced.

(c) You must comply with the requirements for storage vessels holding acrylonitrile as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY.

(d) You must comply with the requirements for equipment that contains or contacts 10 percent by weight or more of AN and operates 300 hours per year as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY.

(e) You must comply with the requirements for process wastewater and maintenance wastewater from an acrylic and modacrylic fiber production process as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY.

(f) You must comply with all testing, monitoring, recordkeeping, and reporting requirements in subpart SS (for process vents); subpart SS or WW (for AN tanks); subpart TT or UU (for equipment leaks); and subpart G (for process wastewater and maintenance wastewater). Only the provisions in §§ 63.132 through 63.148 and §§ 63.151 through 63.153 of subpart G apply to this subpart.

(g) If you use a control device other than a wet scrubber, flare, incinerator, boiler, process heater, absorber, condenser, or carbon adsorber, you must prepare and submit a monitoring plan to the Administrator for approval. Each plan must contain the information in paragraphs (g)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with paragraph (f) of this section verifying the performance of the device for reducing AN to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer's instructions for routine and long-term maintenance) and continuous monitoring system.

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emissions limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

#### Other Requirements and Information

##### § 63.11397 What General Provisions apply to this subpart?

(a) You must meet the requirements of the General Provisions in 40 CFR part 63, subpart A, as shown in Table 1 to this subpart.

(b) If you own or operate an existing affected source, your notification of compliance status required by § 63.9(h) must include the following information:

(1) This certification of compliance, signed by a responsible official, for the standards in § 63.11395(a): "This facility complies with the management practices required in § 63.11395(a) for operation of capture systems for polymerization process equipment and monomer recovery process equipment."

(2) This certification of compliance, signed by a responsible official, for the emissions limits in § 63.11395(b): "This facility complies with the emissions limits in § 63.11395(b) for control devices serving the polymerization process equipment and monomer recovery process equipment based on previous performance tests in accordance with § 63.11395(h)." If you conduct a performance test to demonstrate compliance, you must include the results of the performance test.

(3) This certification of compliance, signed by a responsible official, for the standards for storage tanks in § 63.11396(d): "This facility complies with the requirements of 40 CFR part 60, subpart Kb for each tank that stores acrylonitrile."

(4) This certification of compliance, signed by a responsible official, for the requirement in Table 1 to subpart LLLLLL for preparation of a startup, shutdown, and malfunction plan: "This facility has prepared a startup, shutdown, and malfunction plan in accordance with the requirements of 40 CFR 63.6(e)(3)."

(c) If you own or operate a new affected source, your notification of compliance status required by § 63.9(h) must include:

(1) The results of the initial performance test or compliance demonstration for each process vent (including closed vent system and control device, flare, or recovery device), fiber spinning line, AN storage tank, equipment, and wastewater stream subject to this subpart.

(2) This certification of compliance, signed by a responsible official, for the applicable emissions limit in § 63.11396(a) for process vents: "This facility complies with the emissions limits in § 63.11396(a) for each process vent subject to control."

(3) This certification of compliance, signed by a responsible official, for the applicable emissions limit in § 63.11396(b) for each fiber spinning line: "This facility complies with the emissions limit and/or management practice requirements in § 63.11396(b)(1), (2), or (3) for each fiber spinning line."

(4) This certification of compliance, signed by a responsible official, for the storage tank requirements in § 63.11396(c): "This facility complies with the requirements for storage vessels holding acrylonitrile as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY."

(5) This certification of compliance, signed by a responsible official, for the equipment leak requirements in § 63.11396(d): "This facility complies with the requirements for all equipment that contains or contacts 10 percent by weight or more of AN and operates 300 hours per year or more as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY."

(6) This certification of compliance, signed by a responsible official, for the process wastewater and maintenance wastewater requirements in § 63.11396(e): "This facility complies with the requirements in Table 2 to § 63.1103(b)(3)(i) of subpart YY for each process wastewater stream and each maintenance wastewater stream."

(d) If you own or operate a new affected source, you must report any deviation from the requirements of this subpart in the semiannual report required by 40 CFR 63.10(e)(3).

##### § 63.11398 What definitions apply to this subpart?

*Acrylic fiber* means a manufactured synthetic fiber in which the fiber-forming substance is any long-chain synthetic polymer composed of at least 85 percent by weight of acrylonitrile units.

*Acrylic and modacrylic fibers production* means the production of either of the following synthetic fibers composed of acrylonitrile units: acrylic fiber or modacrylic fiber.

*Acrylonitrile solution polymerization* means a process where acrylonitrile and comonomers are dissolved in a solvent to form a polymer solution (typically polyacrylonitrile). The polyacrylonitrile is soluble in the solvent. In contrast to suspension polymerization, the resulting reactor polymer solution (spin dope) is filtered and pumped directly to the fiber spinning process.

*Acrylonitrile suspension polymerization* means a polymerization process where small drops of acrylonitrile and comonomers are suspended in water in the presence of a catalyst where they polymerize under agitation. Solid beads of polymer are formed in this suspension reaction which are subsequently filtered, washed, refiltered, and dried. The beads must be subsequently redissolved in a solvent to create a spin dope prior to introduction to the fiber spinning process.

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

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation or management practice;

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

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

*Equipment* means each of the following that is subject to this subpart: Pump, compressor, agitator, pressure relief device, sampling collection system, open-ended valve or line, valve connector, instrumentation system in organic HAP service which contains or contacts greater than 10 percent by weight of acrylonitrile and operates more than 300 hours per year.

*Fiber spinning line* means the group of equipment and process vents associated with acrylic or modacrylic fiber spinning operations. The fiber spinning line includes (as applicable to the type of spinning process used) the blending and dissolving tanks, spinning solution filters, wet spinning units, spin

bath tanks, and the equipment used downstream of the spin bath to wash, dry, or draw the spun fiber.

*Maintenance wastewater* means wastewater generated by the draining of process fluid from components in the process unit, whose primary product is a product produced by a source category subject to this subpart, into an individual drain system prior to or during maintenance activities. Maintenance wastewater can be generated during planned and unplanned shutdowns and during periods not associated with a shutdown. Examples of activities that can generate maintenance wastewaters include descaling of heat exchanger tubing bundles, cleaning of distillation column traps, draining of low legs and high point bleeds, draining of pumps into an individual drain system, and draining of portions of the process unit, whose primary product is a product produced by a source category subject to this subpart, for repair.

*Modacrylic fiber* means a manufactured synthetic fiber in which the fiber-forming substance is any long-chain synthetic polymer composed of at least 35 percent by weight of acrylonitrile units but less than 85 percent by weight of acrylonitrile units.

*Monomer recovery process equipment* means the collection of process units and associated process equipment used to reclaim the monomer for subsequent reuse, including but not limited to polymer holding tanks, polymer buffer tanks, monomer vacuum pump flush drum, and drum filter vacuum pump flush drum.

*Polymerization process equipment* means the collection of process units and associated process equipment used in the acrylonitrile polymerization process prior to the fiber spinning line, including but not limited to acrylonitrile storage tanks, recovered monomer tanks, monomer measuring tanks, monomer preparation tanks, monomer feed tanks, slurry receiver tanks, polymerization reactors, and drum filters.

*Process vent* means the point of discharge to the atmosphere (or point of entry into a control device, if any) of a gas stream from the acrylic and modacrylic fibers production process.

*Process wastewater* means wastewater, which during manufacturing or processing, comes into direct contact with or results from the production of use of any raw material, intermediate product, finished product, by-product, or waste product.

*Responsible official* means responsible official as defined at 40 CFR 70.2.

*Spin dope* means the liquid mixture of polymer and solvent that is fed to the spinneret to form the acrylic and modacrylic fibers.

*Wastewater* means process wastewater that:

(1) Contains either an annual concentration of organic hazardous air pollutants listed in Table 9 to subpart G of at least 5 parts per million by weight at the point of determination and has an annual average flow rate of 0.02 liter per minute, or contains an annual average concentration of organic hazardous air pollutants listed in Table 9 to subpart G of at least 10,000 parts per million by weight at the point of determination at any flow rate; and

(2) Is discarded from a polymerization production process, monomer recovery process, or other production operation.

#### **§ 63.11399 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, 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 a State, local, or tribal agency within your State.

(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 approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to a test method under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

As required in § 63.11397(a), you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 1 TO SUBPART LLLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLLL

Citation	Subject	Applies to subpart LLLLLL?	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12) (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability .....	Yes.	
63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved .....	No.	
63.2 .....	Definitions .....	Yes.	
63.3 .....	Units and Abbreviations .....	Yes.	
63.4 .....	Prohibited Activities and Circumvention.	Yes.	
63.5 .....	Preconstruction Review and Notification Requirements.	No.	
63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (e)(3)(i), (e)(3)(iii)–(e)(3)(ix), (f) (g), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes .....	Subpart LLLLLL requires new and existing sources to comply with requirements for startups, shutdowns, and malfunctions in § 63.6(e)(3).
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved .....	No.	
63.6(h)(1)–(h)(4), (h)(5)(i)–(h)(5)(iii), (h)(6)–(h)(9).	.....	No .....	Subpart LLLLLL does not include opacity or visible emissions standards or require a continuous opacity monitoring system.
63.7(a), (e), (f), (g), (h) .....	Performance Testing Requirements.	Yes/No .....	Subpart LLLLLL requires performance tests for new and existing sources; a test for an existing source is not required if a prior test meets the conditions in § 63.11395(h).
63.7(b), (c) .....	.....	Yes/No .....	Requirements for notification of performance test and for quality assurance program apply to new sources but not existing sources.
63.8(a)(1), (a)(2), (b), (c)(1)–(c)(3), (f)(1)–(5).	Monitoring Requirements ....	Yes.	
63.8(a)(3) .....	Reserved .....	No.	
63.8(a)(4) .....	.....	Yes .....	Requirements apply to new sources if flares are the selected control option.
63.8(c)(4)–(c)(8), (d), (e), (f)(6), (g).	.....	Yes .....	Requirements apply to new sources but not to existing sources.
63.9(a), (b)(1), (b)(5), (c), (d), (i), (j).	Notification Requirements ...	Yes.	
63.9(e) .....	.....	Yes/No .....	Notification of performance test is required for new area sources.
63.9(b)(2) .....	.....	Yes .....	Initial notification of applicability is required for new and existing area sources.
63.9(b)(3), (h)(4) .....	Reserved .....	No.	
63.9(b)(4), (h)(5) .....	.....	No.	
63.9(f), (g) .....	.....	No .....	Subpart LLLLLL does not require a continuous opacity monitoring system or continuous emissions monitoring system.
63.9(h)(1)–(h)(3), (h)(6) .....	.....	Yes .....	Notification of compliance status is required for new and existing area sources.
63.10(a) .....	Recordkeeping Requirements.	Yes.	
(b)(1) .....	.....	Yes/No .....	Record retention requirement applies to new area sources but not existing area sources. Subpart LLLLLL establishes 2-year retention period for existing area sources.
63.10(b)(2) .....	.....	Yes .....	Recordkeeping requirements for startups, shutdowns, and malfunctions apply to new and existing area sources.
63.10(b)(3) .....	.....	Yes .....	Recordkeeping requirements for applicability determinations apply to new area sources.
63.10(c)(1), (c)(5)–(c)(14) ....	.....	Yes/No .....	Recordkeeping requirements for continuous parameter monitoring systems apply to new sources but not existing sources.
63.10(c)(2)–(c)(4), (c)(9) .....	Reserved .....	No.	
63.10(d)(1), (d)(4), (e)(1), (e)(2), (f).	Reporting Requirements .....	Yes.	
63.10(d)(2) .....	.....	Yes .....	Report of performance test results applies to each area source required to conduct a performance test.
63.10(d)(3) .....	.....	No .....	Subpart LLLLLL does not include opacity or visible emissions limits.



TABLE 1 TO SUBPART LLLLLL OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLLL—Continued

Citation	Subject	Applies to subpart LLLLLL?	Explanation
63.10(d)(5) .....	.....	Yes .....	Requirements for startup, shutdown, and malfunction reports apply to new and existing area sources.
(e)(1)–(e)(2), (e)(4) .....	.....	No .....	Subpart LLLLLL does not require a continuous emissions monitoring system or continuous opacity monitoring system.
63.10(e)(3) .....	.....	Yes/No .....	Semiannual reporting requirements for excess emissions and parameter monitoring exceedances apply to new area sources but not existing area sources.
63.11 .....	Control Device Requirements.	Yes .....	Requirements apply to new sources if flares are the selected control option.
63.12 .....	State Authorities and Delegations.	Yes.	
63.13 .....	Addresses .....	Yes.	
63.14 .....	Incorporations by Reference	Yes.	
63.15 .....	Availability of Information and Confidentiality.	Yes.	
63.16 .....	Performance Track Provisions.	Yes.	

4. Part 63 is amended by adding subpart MMMMMM to read as follows:

**Subpart MMMMMM—National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources**

Sec.

**Applicability and Compliance Dates**

- 63.11400 Am I subject to this subpart?
- 63.11401 What are my compliance dates?

**Standards and Compliance Requirements**

- 63.11402 What are the standards and compliance requirements for new and existing sources?
- 63.11403 [Reserved]

**Other Requirements and Information**

- 63.11404 What General Provisions apply to this subpart?
- 63.11405 What definitions apply to this subpart?
- 63.11406 Who implements and enforces this subpart?

**Applicability and Compliance Dates**

**§ 63.11400 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a carbon black production facility that is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each carbon black production process unit. The affected source includes all waste management units, maintenance wastewater, and equipment components that contain or contact HAP that are associated with the carbon black production unit.

(1) An affected source is an existing source if you commenced construction or reconstruction of the affected source before April 4, 2007.

(2) An affected source is new if you commenced construction or reconstruction of the affected source on or after April 4, 2007.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) If you own or operate an area source subject to this subpart, you must obtain a permit under 40 CFR part 70 or 40 CFR part 71.

**§ 63.11401 What are my compliance dates?**

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions of this subpart by the date of publication of the final rule in the **Federal Register**.

(b) If you startup a new affected source on or before the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart not later than the date of publication of the final rule in the **Federal Register**.

(c) If you startup a new affected source after the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart upon startup of your affected source.

**Standards and Compliance Requirements**

**§ 63.11402 What are the standards and compliance requirements for new and existing sources?**

You must meet all the requirements in § 63.1103(f) of subpart YY.

**§ 63.11403 [Reserved]**

**Other Requirements and Information**

**§ 63.11404 What General Provisions apply to this subpart?**

The provisions in 40 CFR part 63, subpart A, applicable to this subpart are §§ 63.1 through 63.5 and §§ 63.11 through 63.16.

**§ 63.11405 What definitions apply to this subpart?**

The terms used in this subpart are defined in §§ 63.1101 and 63.1103(f)(2).

**§ 63.11406 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, 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 a State, local, or tribal agency within your State.

(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 approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.992(b)(1).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A “major change to test method” is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A “major change to monitoring” is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A “major change to recordkeeping/reporting” is defined in § 63.90.

5. Part 63 is amended by adding subpart NNNNNN to read as follows:

**Subpart NNNNNN—National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds**

Sec.

**Applicability and Compliance Dates**

63.11407 Am I subject to this subpart?

63.11408 What are my compliance dates?

**Standards and Compliance Requirements**

63.11409 What are the standards?

63.11410 What are the compliance requirements?

**Other Requirements and Information**

63.11411 What General Provisions apply to this subpart?

63.11412 What definitions apply to this subpart?

63.11413 Who implements and enforces this subpart?

Table 1 to Subpart NNNNNN of Part 63—HAP Emissions Units

Table 2 to Subpart NNNNNN of Part 63—Applicability of General Provisions to Subpart NNNNNN

**Applicability and Compliance Dates**

**§ 63.11407 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a chromium compounds manufacturing facility that is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each chromium compounds manufacturing facility.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source before April 4, 2007.

(2) An affected source is new if you commence construction or reconstruction of the affected source on or after April 4, 2007.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the CAA.

(d) If you own or operate an area source subject to this subpart, you must obtain a permit under 40 CFR part 70 or 40 CFR part 71.

**§ 63.11408 What are my compliance dates?**

(a) If you own or operate an existing affected source, you must achieve

compliance with the applicable provisions in this subpart not later than 6 months after the date of publication of the final rule in the **Federal Register**.

(b) If you startup a new affected source on or before the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart not later than the date of publication of the final rule in the **Federal Register**.

(c) If you startup a new affected source after the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart upon startup of your affected source.

**Standards and Compliance Requirements**

**§ 63.11409 What are the standards?**

(a) You must operate a capture system that collects the gases and fumes released during the operation of each emissions unit listed in Table 1 of this subpart and conveys the collected gas stream to a particulate matter (PM) control device.

(b) You must not discharge to the atmosphere through any combination of stacks or other vents process gases from an emissions unit listed in Table 1 of this subpart that contain PM in excess of the allowable process rate determined according to Equation 1 of this section (for an emissions unit with a process rate of less than 30 tons per hour) or Equation 2 of this section (for an emissions unit with a process rate of 30 tons per hour or greater). If more than one process vents to a common stack, the applicable emissions limit for the stack is the sum of allowable emissions calculated for each process using Equation 1 or 2 of this section, as applicable.

$$E = 4.1 \times P^{0.67} \quad (\text{Eq. 1})$$

Where:

E = Emissions limit in pounds per hour (lb/hr); and

P = Process rate of emissions unit in tons per hour (ton/hr).

$$E = 55 \times P^{0.11} - 40 \quad (\text{Eq. 2})$$

**§ 63.11410 What are the compliance requirements?**

(a) *Existing sources.* If you own or operate an existing area source, you must comply with the requirements in paragraphs (b) through (e) of this section.

(b) *Initial control device inspection.* You must conduct an initial inspection of each PM control device according to the requirements in paragraphs (b)(1)

through (4) of this section. You must conduct each inspection no later than 60 days after your applicable compliance date.

(1) For each baghouse, you must visually inspect the system ductwork and baghouse unit for leaks. You must also inspect the inside of each baghouse for structural integrity and fabric filter condition. You must record the results of the inspection and any maintenance action in the logbook required in paragraph (d) of this section.

(2) For each dry electrostatic precipitator, you must verify the proper functioning of the electronic controls for corona power and rapper operation, that the corona wires are energized, and that adequate air pressure is present on the rapper manifold. You must also visually inspect the system ductwork and electrostatic precipitator housing unit and hopper for leaks and inspect the interior of the electrostatic precipitator to determine the condition and integrity of corona wires, collection plates, hopper, and air diffuser plates.

(3) For each wet electrostatic precipitator, you must verify the proper functioning of the electronic controls for corona power, that the corona wires are energized, and that water flow is present. You must also visually inspect the system ductwork and electrostatic precipitator housing unit and hopper for leaks and inspect the interior of the electrostatic precipitator to determine the condition and integrity of corona wires, collection plates, plate wash spray heads, hopper, and air diffuser plates.

(4) For each wet scrubber, you must verify the presence of water flow to the scrubber. You must also visually inspect the system ductwork and scrubber unit for leaks and inspect the interior of the scrubber for structural integrity and the condition of the demister and spray nozzle.

(c) *Periodic inspections/maintenance.* Following the initial inspections, you must perform periodic inspections and maintenance of each PM control device according to the requirements in paragraphs (c)(1) through (4) of this section.

(1) You must inspect and maintain each baghouse according to the requirements in paragraphs (c)(1)(i) and (ii) of this section.

(i) You must conduct monthly visual inspections of the system ductwork for leaks.

(ii) You must conduct annual inspections of the interior of the baghouse for structural integrity and to determine the condition of the fabric filter.

(2) You must inspect and maintain each dry electrostatic precipitator according to the requirements in paragraphs (c)(2)(i) through (iii) of this section.

(i) You must conduct a daily inspection to verify the proper functioning of the electronic controls for corona power and rapper operation, that the corona wires are energized, and that adequate air pressure is present on the rapper manifold.

(ii) You must conduct monthly visual inspections of the system ductwork, housing unit, and hopper for leaks.

(iii) You must conduct biennial inspections of the interior of the electrostatic precipitator to determine the condition and integrity of corona wires, collection plates, plate rappers, hopper, and air diffuser plates.

(3) You must inspect and maintain each wet electrostatic precipitator according to the requirements in paragraphs (c)(3)(i) through (iii) of this section.

(i) You must conduct a daily inspection to verify the proper functioning of the electronic controls for corona power, that the corona wires are energized, and that water flow is present.

(ii) You must conduct monthly visual inspections of the system ductwork, electrostatic precipitator housing unit, and hopper for leaks.

(iii) You must conduct biennial inspections of the interior of the electrostatic precipitator to determine the condition and integrity of corona wires, collection plates, plate rappers, hopper, and air diffuser plates.

(4) You must inspect and maintain each wet scrubber according to the requirements in paragraphs (c)(4)(i) through (iii) of this section.

(i) You must conduct a daily inspection to verify the presence of water flow to the scrubber.

(ii) You must conduct monthly visual inspections of the system ductwork and scrubber unit for leaks.

(iii) You must conduct annual inspections of the interior of the scrubber to determine the structural integrity and condition of the demister and spray nozzle.

(d) *Recordkeeping requirements.* You must record the results of each inspection and maintenance action in a logbook (written or electronic format). You must keep the logbook onsite and make the logbook available to the permitting authority upon request. You must keep records of the information specified in paragraphs (d)(1) through (4) of this section for 5 years following the date of each recorded action.

(1) The date and time of each recorded action for a fabric filter, the results of each inspection, and the results of any maintenance performed on the bag filters.

(2) The date and time of each recorded action for a wet or dry electrostatic precipitator (including ductwork), the results of each inspection, and the results of any maintenance performed on the electrostatic precipitator.

(3) The date and time of each recorded action for a wet scrubber (including ductwork), the results of each inspection, and the results of any maintenance performed on the wet scrubber.

(4) Records of all required monitoring data and supporting information including all calibration and maintenance records, original strip-chart recordings for continuous monitoring information, and copies of all reports required by this subpart. You must maintain records of required monitoring data in a form suitable and readily available for expeditious review. All records must be kept onsite and made available to EPA or the delegated authority for inspection upon request. You must maintain records of all required monitoring data and supporting information for at least 5 years from the date of the monitoring sample, measurement, report, or application.

(e) *Reports.* (1) You must report each deviation (an action or condition not in accordance with the requirements of this subpart, including upset conditions but excluding excess emissions) to the permitting agency on the next business day after becoming aware of the deviation. You must submit a written report within 2 business days which identifies the probable cause of the deviation and any corrective actions or preventative actions taken. All reports of deviations must be certified by a responsible official.

(2) You must submit semiannual reports of monitoring and recordkeeping activities to your permitting authority.

(3) You must submit the results of any maintenance performed on each PM control device within 30 days of a written request by the permitting authority.

(f) *New sources.* If you own or operate a new affected source, you must comply with the requirements in paragraphs (g) and (h) of this section.

(g) *Bag leak detection systems.* You must install, operate, and maintain a bag leak detection system on all baghouses used to comply with the PM emissions limit in § 63.11409 according to paragraph (g)(1) of this section; prepare

and operate by a site-specific monitoring plan according to paragraph (g)(2) of this section; take corrective action according to paragraph (g)(3) of this section; and record information according to paragraph (g)(4) of this section.

(1) Each bag leak detection system must meet the specifications and requirements in paragraphs (g)(1)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 0.00044 grains per actual cubic foot or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings. The owner or operator shall continuously record the output from the bag leak detection system using electronic or other means (e.g., using a strip chart recorder or a data logger).

(iii) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (g)(1)(iv) of this section, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(iv) In the initial adjustment of the bag leak detection system, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(v) Following initial adjustment, you shall not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided in paragraph (g)(1)(vi) of this section.

(vi) Once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by paragraph (g)(2) of this section.

(vii) You must install the bag leak detection sensor downstream of the baghouse and upstream of any wet scrubber.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(2) You must develop and submit to the Administrator or delegated authority for approval a site-specific monitoring plan for each bag leak detection system. You must operate and maintain the bag leak detection system according to the

site-specific monitoring plan at all times. Each monitoring plan must describe the items in paragraphs (g)(2)(i) through (vi) of this section.

(i) Installation of the bag leak detection system;

(ii) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point will be established;

(iii) Operation of the bag leak detection system, including quality assurance procedures;

(iv) How the bag leak detection system will be maintained, including a routine maintenance schedule and spare parts inventory list;

(v) How the bag leak detection system output will be recorded and stored; and

(vi) Corrective action procedures as specified in paragraph (g)(3) of this section. In approving the site-specific monitoring plan, the Administrator or delegated authority may allow owners and operators more than 3 hours to alleviate a specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(3) For each bag leak detection system, you must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in paragraph (g)(2)(vi) of this section, you must alleviate the cause of the alarm within 3 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to the following:

(i) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in particulate emissions;

(ii) Sealing off defective bags or filter media;

(iii) Replacing defective bags or filter media or otherwise repairing the control device;

(iv) Sealing off a defective baghouse compartment;

(v) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system; or

(vi) Shutting down the process producing the particulate emissions.

(4) You must maintain records of the information specified in paragraphs (g)(4)(i) through (iii) of this section for each bag leak detection system.

(i) Records of the bag leak detection system output;

(ii) Records of bag leak detection system adjustments, including the date and time of the adjustment, the initial bag leak detection system settings, and the final bag leak detection system settings; and

(iii) The date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and whether the alarm was alleviated within 3 hours of the alarm.

(h) *Other control devices.* If you use a control device other than a baghouse, you must prepare and submit a monitoring plan to EPA or the delegated authority for approval. Each plan must contain the information in paragraphs (h)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with paragraph (i) of this section verifying the performance of the device for reducing PM to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer's instructions for routine and long-term maintenance) and continuous monitoring system.

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emissions limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

(i) *Performance tests.* If you own or operate a new affected source, you must conduct a performance test for each emissions unit subject to an emissions limit in § 63.11409(b) within 180 days of your compliance date and report the results in your notification of compliance status. If you own or operate an existing affected source, you are not required to conduct a performance test if a prior performance test was conducted within the past five years of the effective date using the same methods specified in paragraph (j) of this section and either no process changes have been made since the test, or if you can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

(j) *Test methods.* You must conduct each performance test according to the requirements in § 63.7 and paragraphs (j)(1) through (3) of this section.

(1) Determine the concentration of PM according to the following test methods in appendix A to part 60 of this chapter:

(i) Method 1 or 1A to select sampling port locations and the number of traverse points in each stack or duct. Sampling sites must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses (incorporated by reference—see § 63.14) as an alternative to EPA Method 3B.

(iv) Method 4 to determine the moisture content of the stack gas.

(v) Method 5 or 5D to determine the concentration of particulate matter (front half filterable catch only). Three valid test runs are needed to comprise a performance test.

(2) During the test, you must operate each emissions unit within 10 percent of the normal process rate specified in your notification of compliance status. You must monitor and record the process rate during the test.

(3) Compute the mass emissions (E) in pounds per hour (lb/hr) for each test run using Equation 1 of this section and the process rate measured during the test. The PM emissions in lb/hr must be less than the allowable PM emissions rate for the emissions unit.

$$E = \frac{C \times Q}{K} \quad (\text{Eq. 3})$$

Where:

E = Mass emissions of PM, pounds per hour (lb/hr);

C = Concentration of PM, grains per dry standard cubic foot (gr/dscf);

Q = Volumetric flow rate of stack gas, dry standard cubic foot per hour (dscf/hr); and

K = Conversion factor, 7,000 grains per pound (gr/lb).

(k) *Startups, shutdown, and malfunctions.* The requirements in paragraphs (k)(1) and (2) of this section apply to the owner or operator of a new or existing affected source.

(1) Except as provided in paragraph (k)(2) of this section, you must report emissions in excess of a PM emissions limit established by this subpart lasting for more than 4 hours that result from a malfunction, a breakdown of process or control equipment, or any other abnormal condition by 9 a.m. of the next business day of becoming aware of the occurrence. You must provide the name and location of the facility, the nature

and cause of the malfunction or breakdown, the time when the malfunction or breakdown is first observed, the expected duration, and the estimated rate of emissions. You must also notify EPA or the delegated authority immediately when corrected measures have been accomplished and, if requested, submit a written report within 15 days after the request.

(2) As an alternative to the requirements in paragraph (k)(1) of this section, you must comply with the startup, shutdown, and malfunction requirements in 40 CFR 63.6(e)(3).

#### Other Requirements and Information

##### § 63.11411 What General Provisions apply to this subpart?

(a) You must comply with the requirements of the General Provisions in 40 CFR part 63, subpart A as specified in Table 2 to this subpart.

(b) Your notification of compliance status required by § 63.9(h) must include the following information for a new or existing affected source:

(1) This certification of compliance, signed by a responsible official, for the standards in § 63.11409(a): "This facility complies with the management practice requirements in § 63.11409(a) for installation and operation of capture systems for each emissions unit subject to an emissions limit in § 63.11409(b)."

(2) This certification of compliance by the owner or operator of an existing source (if applicable), signed by a responsible official, for the emissions limits in § 63.11409(b): "This facility complies with the emissions limits in § 63.11409(b) based on a previous performance test in accordance with § 63.11410(i)."

(3) The process rate for each emissions point subject to an emissions limit in § 63.11409(b) that represents normal and representative production operations.

(4) The procedures used to measure and record the process rate for each emissions unit point to an emissions limit in § 63.11409(b).

(5) This certification of compliance by the owner or operator of an existing affected source, signed by a responsible official, for the control device inspection and maintenance requirements in § 63.11410(b) through (d): "This facility has conducted an initial inspection of each control device according to the requirements in § 63.11410(b), will conduct periodic inspections and maintenance of control devices in accordance with § 63.11410(c), and will maintain records of each inspection and maintenance action in the logbook required by § 63.11410(d)."

(6) This certification of compliance by the owner or operator of a new affected source, signed by a responsible official, for the bag leak detection system monitoring plan requirement in § 63.11410(g)(2): "This facility has an approved bag leak detection system monitoring plan in accordance with § 63.11410(g)(2)."

(7) Performance test results for each emissions unit at a new affected source (or each emissions point at an existing affected source if a test is required) in accordance with § 63.11410(j). The performance test results for a new affected source must identify the daily average parameter operating limit for each PM control device.

(8) If applicable, this certification of compliance by the owner or operator of a new or existing source, signed by a responsible official, for the requirement in paragraph (k)(2) of this section to comply with the startup, shutdown, and malfunction provisions in 40 CFR 63.6(e)(3): "This facility has prepared a startup, shutdown, and malfunction plan in accordance with 40 CFR 63.6(e)(3)".

##### § 63.11412 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

*Bag leak detection system* means a system that is capable of continuously monitoring relative particulate matter (dust loadings) in the exhaust of a baghouse to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

*Chromic acid* means chromium trioxide (CrO<sub>3</sub>). It is produced by the electrolytic reaction or acidification of sodium dichromate.

*Chromium compounds manufacturing* means any process that uses chromite ore as the basic feedstock to manufacture chromium compounds, primarily sodium dichromate, chromic acid, and chromic oxide.

*Chromite ore* means an oxide of chromium and iron (FeCr<sub>2</sub>O<sub>4</sub>) that is the primary feedstock for chromium compounds manufacturing.

*Chromic oxide* means Cr<sub>2</sub>O<sub>3</sub>. In the production of chromic oxide, ammonium sulfate and sodium dichromate that have been concentrated by evaporation are mixed and fed to a rotary roasting kiln to produce chromic oxide, sodium sulfate and nitrogen gas.

*Roasting* means a heating (oxidizing) process where ground chromite ore is mixed with alkaline material (such as soda ash, sodium bicarbonate, and sodium hydroxide) and fed to a rotary kiln where it is heated to about 2,000 °F, converting the majority of the chromium in the ore from trivalent to hexavalent chromium.

*Sodium chromate* means Na<sub>2</sub>CrO<sub>4</sub>. It is produced by roasting chromite ore in a rotary kiln.

*Sodium dichromate* means sodium bichromate or sodium bichromate dihydrate and is known technically as sodium dichromate dihydrate (Na<sub>2</sub>Cr<sub>2</sub>O<sub>7</sub>·2H<sub>2</sub>O). It is produced by the electrolytic reaction or acidification of sodium chromate.

##### § 63.11413 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, 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 a 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 paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

As required in § 63.11409, you must install and operate capture systems and comply with the applicable emissions limit for each emissions point shown in the following table.

TABLE 1 TO SUBPART NNNNNN OF PART 63.—HAP EMISSIONS UNITS

Process	Emissions points
1. Sodium chromate production .....	a. Ball mill used to grind chromite ore. b. Dryer used to dry chromite ore. c. Rotary kiln used to roast chromite ore to produce sodium chromate. d. Secondary rotary kiln used to recycle and refine residues containing chromium compounds. e. Filter for sodium chromate slurry. f. Quench tanks.
2. Sodium dichromate production ...	a. Stack on the electrolytic cell system used to produce sodium dichromate. b. Sodium dichromate crystallization unit. c. Sodium dichromate evaporation unit. d. Sodium dichromate drying unit.
3. Chromic acid production .....	a. Electrolytic cell system used to produce chromic acid. b. Reactor used to produce chromic acid. c. Chromic acid crystallization unit. d. Chromic acid dryer.
4. Chromic oxide production .....	a. Primary rotary roasting kiln used to produce chromic oxide. b. Chromic oxide filter. c. Chromic oxide dryer. d. Chromic oxide grinding unit. e. Chromic oxide storage vessel. f. Secondary rotary roasting kiln. g. Quench tanks.
5. Chromium hydrate production ....	a. Furnace used to produce chromium hydrate. b. Chromium hydrate grinding unit.

As required in § 63.11411(a), you must comply with the requirements of the General Provisions (40 CFR part 63, subpart A) as shown in the following table.

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

Citation	Subject	Applies to subpart NNNNNN?	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)-(a)(12), (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability .....	Yes.	
63.1(a)(5), (a)(7)-(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved .....	No.	
63.2 .....	Definitions .....	Yes.	
63.3 .....	Units and Abbreviations ....	Yes.	
63.4 .....	Prohibited Activities and Circumvention.	Yes.	
63.5 .....	Preconstruction Review and Notification Requirements.	No.	
63.6(a), (b)(1)-(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (e)(3)(i), (e)(3)(iii)-(e)(3)(ix), (f), (g), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes .....	The startup, shutdown, and malfunction requirements in § 63.6(e)(3) apply at new and existing area sources that choose to comply with § 63.11410(k)(2) instead of the requirements in § 63.11410(k)(1).
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved .....	No.	
63.6(h)(1)-(h)(4), (h)(5)(i)-(h)(5)(iii), (h)(6)-(h)(9).	No .....	Subpart NNNNNN does not include opacity or visible emissions standards or require a continuous opacity monitoring system.	
63.7(a), (e), (f), (g), (h) .....	Performance Testing Requirements.	Yes .....	Subpart NNNNNN requires a performance test for a new source; a test for an existing source is not required under the conditions specified in § 63.11410(i).
63.7(b), (c) .....	.....	Yes/No .....	Requirements for notification of performance test and for quality assurance program apply to new area sources but not existing area sources.
63.8(a)(1), (a)(2), (b), (c)(1)-(c)(3), (f)(1)-(5).	Monitoring Requirements ..	Yes.	
63.8(a)(3) .....	Reserved .....	No.	
63.8(a)(4) .....	.....	No .....	Subpart NNNNNN does not require flares.

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

Citation	Subject	Applies to subpart NNNNNN?	Explanation
63.8(c)(4)–(c)(8), (d), (e), (f)(6), (g).		No	Subpart NNNNNN establishes requirements for continuous parameter monitoring systems.
63.9(a), (b)(1), (b)(5), (c), (d), (i), (j).	Notification Requirements	Yes.	
63.9(e)		Yes/No	Notification of performance test is required only for new area sources.
63.9(b)(2)		Yes.	Subpart NNNNNN does not include opacity or visible emissions standards or require a continuous opacity monitoring system or continuous emissions monitoring system.
63.9(b)(3), (h)(4)	Reserved	No.	
63.9(b)(4), (h)(5)		No.	
63.9(f), (g)		No	
63.9(h)(1)–(h)(3), (h)(6)		Yes.	Recordkeeping requirements for startups, shutdowns, and malfunctions apply to new and existing area sources that choose to comply with § 63.11410(k)(2).
63.10(a), (b)(1), (b)(2)(xii), (b)(2)(xiv), (b)(3).	Recordkeeping Requirements.	Yes.	
63.10(b)(2)(i)–(b)(2)(v)		Yes	
63.10(b)(2)(vi)–(b)(2)(ix), (c)(1), (c)(5)–(c)(14).		Yes/No	Requirements apply to continuous parameter monitoring systems at new area sources but not existing area sources.
63.10(b)(2)(vii)(A)–(B), (b)(2)(x), (b)(2)(xiii).		No.	Report of performance test results applies to new area sources; requirement applies to existing area sources if the permitting authority requests a performance test.
63.10(c)(2)–(c)(4), (c)(9)	Reserved	No.	
63.10(d)(1), (d)(4), (e)(1), (e)(2), (f).	Reporting Requirements	Yes.	
63.10(d)(2)		Yes	
63.10(d)(3)		No	Subpart NNNNNN does not include opacity or visible emissions limits.
63.10(d)(5)		Yes	Requirements for startup, shutdown, and malfunction reports apply to new and existing area sources that choose to comply with § 63.11410(k)(2).
63.10(e)(1)–(e)(2), (e)(4)		No	Subpart NNNNNN does not require a continuous emissions monitoring system or continuous opacity monitoring system.
63.10(e)(3)		Yes/No	Semiannual reporting requirements apply to new area sources but not existing area sources.
63.11	Control Device Requirements.	No	Subpart NNNNNN does not require flares.
63.12	State Authorities and Delegations.	Yes.	
63.13	Addresses	Yes.	
63.14	Incorporations by Reference.	Yes.	
63.15	Availability of Information and Confidentiality.	Yes.	
63.16	Performance Track Provisions.	Yes.	

6. Part 63 is amended by adding subpart OOOOOO to read as follows:

**Subpart OOOOOO—National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources**

Sec.

**Applicability and Compliance Dates**

63.11414 Am I subject to this subpart?

63.11415 What are my compliance dates?

**Standards and Compliance Requirements**

63.11416 What are the standards for new and existing sources?

63.11417 What are the compliance requirements for new and existing sources?

**Other Requirements and Information**

63.11418 What General Provisions apply to this subpart?

63.11419 What definitions apply to this subpart?

63.11420 Who implements and enforces this subpart?

**Tables to Subpart OOOOOO of Part 63**

Table 1 to Subpart OOOOOO of Part 63—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart OOOOOO

**Applicability and Compliance Dates**

**§ 63.11414 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate an area source of



hazardous air pollutant (HAP) emissions that meets the criteria in paragraph (a)(1) or (2) of this section.

(1) You own or operate a plant that produces flexible polyurethane foam or rebond foam as defined in § 63.1292 of subpart III.

(2) You own or operate a flexible polyurethane foam fabrication facility, as defined in § 63.11419.

(b) The provisions of this subpart apply to each new and existing affected source that meets the criteria listed in paragraphs (b)(1) through (4) of this section.

(1) A slabstock flexible polyurethane foam production affected source is the collection of all equipment and activities necessary to produce slabstock flexible polyurethane foam.

(2) A molded flexible polyurethane foam production affected source is the collection of all equipment and activities necessary to produce molded foam.

(3) A rebond foam production affected source is the collection of all equipment and activities necessary to produce rebond foam.

(4) A flexible polyurethane foam fabrication affected source is the collection of all equipment and activities at a flexible polyurethane foam fabrication facility where adhesives are used to bond foam to foam or other substrates. Equipment and activities at flexible polyurethane foam fabrication facilities which do not use adhesives to bond foam to foam or other

substrates are not flexible polyurethane foam fabrication affected sources.

(c) An affected source is existing if you commenced construction or reconstruction of the affected source before April 4, 2007.

(d) An affected source is new if you commenced construction or reconstruction of the affected source on or after April 4, 2007.

(e) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(f) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

#### § 63.11415 What are my compliance dates?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions in this subpart by the date of publication of the final rule in the **Federal Register**.

(b) If you startup a new affected source on or before the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions in this subpart not later than the date of publication of the final rule in the **Federal Register**.

(c) If you startup a new affected source after the date of publication of

the final rule in the **Federal Register**, you must achieve compliance with the provisions in this subpart upon startup of your affected source.

#### Standards and Compliance Requirements

##### § 63.11416 What are the standards for new and existing sources?

(a) If you own or operate a slabstock flexible polyurethane foam production affected source, you must meet the requirements in paragraph (b) of this section. If you own or operate a molded foam affected source, you must meet the requirements in paragraph (c) of this section. If you own or operate a rebond foam affected source, you must meet the requirements in paragraph (d) of this section. If you own or operate a flexible polyurethane foam fabrication affected source you must meet the requirements in paragraph (e) of this section.

(b) If you own or operate a new or existing slabstock polyurethane foam production affected source, you must comply with the requirements in either paragraph (b)(1) or (2) of this section.

(1) Comply with § 63.1293(a) or (b) of subpart III, except that you must use Equation 1 of this section to determine the HAP auxiliary blowing agent (ABA) formulation limit for each foam grade instead of Equation 3 of § 63.1297 of subpart III. You must use zero as the formulation limitation for any grade of foam where the result of the formulation equation (using Equation 1 of this section) is negative (i.e., less than zero):

$$ABA_{\text{limit}} = -0.2(\text{IFD}) - 19.1 \left( \frac{1}{\text{IFD}} \right) - 15.3(\text{DEN}) - 6.8 \left( \frac{1}{\text{DEN}} \right) + 36.5 \quad (\text{Equation 1})$$

Where:

$ABA_{\text{limit}}$  = HAP ABA formulation limitation, parts methylene chloride ABA allowed per hundred parts polyol (pph).

IFD = Indentation force deflection, pounds.

DEN = Density, pounds per cubic foot.

(2) Use no material containing methylene chloride for any purpose in any slabstock flexible foam production process.

(c) If you own or operate a new or existing molded foam affected source, you must comply with the requirements in paragraphs (c)(1) and (2) of this section.

(1) You must not use a material containing methylene chloride as an equipment cleaner to flush the mixhead or use a material containing methylene chloride elsewhere as an equipment cleaner in a molded flexible polyurethane foam process.

(2) You must not use a mold release agent containing methylene chloride in a molded flexible polyurethane foam process.

(d) If you own or operate a new or existing rebond foam affected source, you must comply with the requirements in paragraphs (d)(1) and (2) of this section.

(1) You must not use a material containing methylene chloride as an equipment cleaner in a rebond foam process.

(2) You must not use a mold release agent containing methylene chloride in a rebond foam process.

(e) If you own or operate a new or existing flexible polyurethane foam fabrication affected source, you must not use any adhesive containing methylene chloride in a flexible polyurethane foam fabrication process.

(f) You may demonstrate compliance with the requirements in paragraphs (b)(2) and (c) through (e) of this section using adhesive usage records, Material Safety Data Sheets, and engineering calculations.

##### § 63.11417 What are the compliance requirements for new and existing sources?

(a) If you own or operate a slabstock flexible polyurethane foam production affected source, you must comply with the requirements in paragraph (b) of this section. If you own or operate a molded foam affected source, rebond foam affected source, or a loop slitter at a flexible polyurethane foam fabrication affected source you must comply with the requirements in paragraphs (c) and (d) of this section.

(b) Each owner or operator of a new or existing slabstock flexible

polyurethane foam production affected source who chooses to comply with § 63.11416(b)(1) must comply with paragraph (b)(1) of this section. Each owner or operator of a new or existing slabstock flexible polyurethane foam production affected source who chooses to comply with § 63.11416(b)(2) must comply with paragraphs (b)(2) and (3) of this section.

(1) You must comply with paragraphs (b)(1)(i) through (v) of this section.

(i) The monitoring requirements in § 63.1303 of subpart III.

(ii) The testing requirements in § 63.1304 or § 63.1305 of subpart III.

(iii) The reporting requirements in § 63.1306 of subpart III, with the exception of the reporting requirements in § 63.1306(d)(1), (2), (4), and (5) of subpart III.

(iv) The recordkeeping requirements in § 63.1307 of subpart III.

(v) The compliance demonstration requirements in § 63.1308(a), (c), and (d) of subpart III.

(2) You must submit a notification of compliance status report no later than 180 days after your compliance date. The report must contain the information detailed in § 63.9(h)(2)(i) paragraphs (A) and (G), and must contain this certification of compliance, signed by a responsible official, for the standards in § 63.11416(b)(2): "This facility uses no material containing methylene chloride for any purpose on any slabstock flexible foam process and will not use it in the future."

(3) You must maintain records of the information used to demonstrate compliance, as required in § 63.11416(f). You must maintain the records for 5 years, with the last 2 years of data retained on site. The remaining 3 years of data may be maintained off site.

(c) You must have a compliance certification on file by the compliance date. This certification must contain the statements in paragraph (c)(1), (2), or (3) of this section, as applicable, and must be signed by a responsible official.

(1) For a molded foam affected source: (i) "This facility does not use, and will not use in the future, any equipment cleaner to flush the mixhead

which contains methylene chloride, or any other equipment cleaner containing methylene chloride in a molded flexible polyurethane foam process in accordance with § 63.11416(c)(1)."

(ii) "This facility does not use, and will not use in the future, any mold release agent containing methylene chloride in a molded flexible polyurethane foam process in accordance with § 63.11416(c)(2)."

(2) For a rebond foam affected source:

(i) "This facility does not use, and will not use in the future, any equipment cleaner which contains methylene chloride in a rebond flexible polyurethane foam process in accordance with § 63.11416(d)(1)."

(ii) "This facility does not use, and will not use in the future, any mold release agent containing methylene chloride in a rebond flexible polyurethane foam process in accordance with § 63.11416(d)(2)."

(3) For a flexible polyurethane foam fabrication affected source containing a loop splitter: "This facility does not use, and will not use in the future, any adhesive containing methylene chloride on a loop splitter process in accordance with § 63.11416(e)."

(d) For molded foam affected sources, rebond foam affected sources, and flexible polyurethane foam fabrication affected sources containing a loop splitter, you must maintain records of the information used to demonstrate compliance, as required in § 63.11416(f). You must maintain the records for 5 years, with the last 2 years of data retained on site. The remaining 3 years of data may be maintained off site.

**Other Requirements and Information**

**§ 63.11418 What General Provisions apply to this subpart?**

The provisions in 40 CFR part 63, subpart A, applicable to sources subject to § 63.11416(b)(1) are specified in Table 1 of this subpart.

**§ 63.11419 What definitions apply to this subpart?**

The terms used in this subpart are defined in the CAA; § 63.1292 of subpart III; § 63.8830 of subpart

MMMMM; § 63.2 of subpart A; and in this section as follows:

*Flexible polyurethane foam fabrication facility* means a facility where pieces of flexible polyurethane foam are cut, bonded, and/or laminated together or to other substrates.

**§ 63.11420 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, 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 a State, local, or tribal agency within your State.

(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 approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative No-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

**Tables to Subpart OOOOOO of Part 63**

As required in § 63.11418, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 1 TO SUBPART OOOOOO.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART OOOOOO

Subpart A reference	Applies to subpart OOOOOO?	Comment
§ 63.1 .....	Yes.	Definitions are modified and supplemented by § 63.11419.
§ 63.2 .....	Yes .....	
§ 63.3 .....	Yes.	
§ 63.4 .....	Yes.	
§ 63.5 .....	Yes.	
§ 63.6(a)–(d) .....	Yes.	

TABLE 1 TO SUBPART OOOOOO.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART OOOOOO—Continued

Subpart A reference	Applies to subpart OOOOOO?	Comment
§ 63.6(e)(1)–(2)	Yes.	
§ 63.6(e)(3)	No	Owners and operators of subpart OOOOOO affected sources are No required to develop and implement a startup, shutdown, and malfunction plan.
§ 63.6 (f)–(g)	Yes.	
§ 63.6(h)	No	Subpart OOOOOO does No require opacity and visible emissions standards.
§ 63.6 (i)–(j)	Yes.	
§ 63.7	No	Performance tests No required by subpart OOOOOO.
§ 63.8	No	Continuous monitoring, as defined in subpart A, is No required by subpart OOOOOO.
§ 63.9(a)–(d)	Yes.	
§ 63.9(e)–(g)	No.	
§ 63.9(h)	No	Subpart OOOOOO specifies Noification of Compliance Status requirements.
§ 63.9 (i)–(j)	Yes.	
§ 63.10(a)–(b)	Yes	Except that the records specified in § 63.10(b)(2) are No required.
§ 63.10(c)	No.	
§ 63.10(d)(1)	Yes.	
§ 63.10(d)(2)–(3)	No.	
§ 63.10(d)(4)	Yes.	
§ 63.10(d)(5)	No.	
§ 63.10(e)	No.	
§ 63.10(f)	Yes.	
§ 63.11	No.	
§ 63.12	Yes.	
§ 63.13	Yes.	
§ 63.14	Yes.	
§ 63.15	Yes.	
§ 63.16	Yes.	

7. Part 63 is amended by adding subpart P P P P P P to read as follows:

**Subpart P P P P P P—National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources**

Sec.

**Applicability and Compliance Dates**

- 63.11421 Am I subject to this subpart?
- 63.11422 What are my compliance dates?

**Standards and Compliance Requirements**

- 63.11423 What are the standards and compliance requirements for new and existing sources?
- 63.11424 [Reserved]

**Other Requirements and Information**

- 63.11425 What General Provisions apply to this subpart?
- 63.11426 What definitions apply to this subpart?
- 63.11427 Who implements and enforces this subpart?

**Applicability and Compliance Dates**

**§ 63.11421 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a lead acid battery manufacturing plant that is an area source of hazardous air pollutants (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each lead acid battery

manufacturing plant. The affected source includes all grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and any other lead-emitting operation that are associated with the lead acid battery manufacturing plant.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source before April 4, 2007.

(2) An affected source is new if you commenced construction or reconstruction of the affected source on or after April 4, 2007.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

**§ 63.11422 What are my compliance dates?**

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable

provisions in this subpart by no later than 1 year after the date of publication of the final rule in the **Federal Register**.

(b) If you start up a new affected source on or before the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions in this subpart not later than the date of publication of the final rule in the **Federal Register**.

(c) If you start up a new affected source after the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the provisions in this subpart upon startup of your affected source.

**Standards and Compliance Requirements**

**§ 63.11423 What are the standards and compliance requirements for new and existing sources?**

(a) You must meet all the requirements in 40 CFR 60.372, 60.373, and 60.374, with the exception noted in paragraph (b) of this section.

(b) Existing sources are not required to conduct a performance test if a prior performance test was conducted using the same methods specified in 40 CFR 60.374 and either no process changes have been made since the test, or you can demonstrate that the results of the performance test, with or without

adjustments, reliably demonstrates compliance despite process changes.

(c) Sources without a prior performance test, as described in paragraph (b) of this section, must conduct a performance test using the methods specified in 40 CFR 60.374 by 180 days after the compliance date.

#### § 63.11424 [Reserved]

#### Other Requirements and Information

##### § 63.11425 What General Provisions apply to this subpart?

(a) The provisions in 40 CFR part 60, subpart A, applicable to this subpart are §§ 60.7 through 60.8, §§ 60.11 through 60.13, and § 60.17.

(b) The provisions in 40 CFR part 63, subpart A, applicable to this subpart are §§ 63.1 through 63.4, § 63.6(g), § 63.9(b) through (d), § 63.9(h), and §§ 63.12 through 63.16.

##### § 63.11426 What definitions apply to this subpart?

The terms used in this subpart are defined in the CAA; 40 CFR 60.371; 40 CFR 60.2 for terms used in the applicable provisions of part 60, subpart A, as specified in § 63.11425(a); and § 63.2 for terms used in the applicable provisions of part 63, subpart A, as specified in § 63.11425(b).

##### § 63.11427 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, 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 a State, local, or tribal agency within your State.

(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 approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under 40 CFR 60.8(b). A “major change to test method” is defined in § 63.90.

(3) Approval of a major change to monitoring under 40 CFR 60.13(i). A “major change to monitoring” is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under 40 CFR 60.7(b) through (f). A “major change to recordkeeping/reporting” is defined in § 63.90.

8. Part 63 is amended by adding subpart QQQQQQ to read as follows:

#### Subpart QQQQQQ—National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources

Sec.

##### Applicability and Compliance Dates

63.11428 Am I subject to this subpart?

63.11429 What are my compliance dates?

##### Standards

63.11430 What are the standards?

63.11431 [Reserved]

##### Other Requirements and Information

63.11432 What General Provisions apply to this subpart?

63.11433 What definitions apply to this subpart?

63.11434 Who implements and enforces this subpart?

##### Applicability and Compliance Dates

##### § 63.11428 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a wood preserving operation that is an area source of hazardous air pollutant (HAP) emissions.

(b) The affected source is each new or existing wood preserving operation.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source before April 4, 2007.

(2) An affected source is new if you commenced construction or reconstruction of the affected source on or after April 4, 2007.

(c) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

##### § 63.11429 What are my compliance dates?

(a) If you have an existing affected source, you must achieve compliance with applicable provisions in this subpart by the date of publication of the final rule in the **Federal Register**.

(b) If you startup a new affected source on or before the date of publication of the final rule in the **Federal Register**, you must achieve compliance with applicable provisions in this subpart not later than the date of publication of the final rule in the **Federal Register**.

(c) If you startup a new affected source after the date of publication of the final rule in the **Federal Register**, you must achieve compliance with applicable provisions in this subpart upon initial startup.

#### Standards

##### § 63.11430 What are the standards?

(a) If you use a pressure treatment process with any wood preservatives containing chromium, arsenic, dioxins, or methylene chloride at a new or existing area source, the preservatives must be applied to the wood product inside a retort or similarly enclosed vessel.

(b) If you use a thermal treatment process with any wood preservatives containing chromium, arsenic, dioxins, or methylene chloride at a new or existing area source, the preservatives must be applied using process treatment tanks equipped with an air scavenging system to control emissions.

(c) You must prepare and operate according to a management practice plan to minimize air emissions from the preservative treatment of wood at a new or existing area source. You may use your standard operating procedures to meet the requirements for a management practice plan if it includes the minimum activities required for a management practice plan. The management practice plan must include, but is not limited to, the following activities:

(1) Minimize preservative usage;

(2) Maintain records on the type of treatment process and types and amounts of wood preservatives used at the facility;

(3) For the pressure treatment process, maintain charge records identifying pressure reading(s) inside the retorts (or similarly enclosed vessel);

(4) For the thermal treatment process, maintain records that the air scavenging system is in place and operated properly during the treatment process;

(5) Store treated wood product on drip pads or in a primary containment area to convey preservative drippage to a collection system until drippage has ceased;

(6) For the pressure treatment process, fully drain the retort prior to opening the retort door;

(7) Promptly collect any spills; and

(8) Perform relevant corrective actions or preventative measures in the event of a malfunction before resuming operations.

**§ 63.11431 [Reserved]**

**Other Requirements and Information**

**§ 63.11432 What General Provisions apply to this subpart?**

(a) If you own or operate a new or existing affected source, you must comply with the requirements of the General Provisions in 40 CFR part 63, subpart A, according to Table 1 to this subpart.

(b) You must submit an initial notification of applicability required by § 63.9(a)(2) no later than 90 days after the applicable compliance date specified in § 63.11429. The initial notification may be combined with the notification of compliance status required in paragraph (c) of this section. The notification of applicability must include the following information:

- (1) The name and address of the owner or operator;
- (2) The address (i.e., physical location) of the affected source; and
- (3) An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date.

(c) You must submit a notification of compliance status required by § 63.9(h) no later than 90 days after the applicable compliance date specified in § 63.11429. Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the standards in § 63.11430: "This facility complies with the management practices to minimize air emissions from the preservative treatment of wood in accordance with § 63.11430."

(d) You must report any deviation from the requirements of this subpart within 30 days of the deviation.

**§ 63.11433 What definitions apply to this subpart?**

Terms used in this subpart are defined in the Clean Air Act, § 63.2, and in this section as follows:

*Air scavenging system* means an air collection and control system that

collects and removes vapors from a thermal treatment process vessel and vents the emissions to a vapor recovery tank that collects condensate from the vapors.

*Chromated copper arsenate (CCA)* means a chemical wood preservative consisting of mixtures of water-soluble chemicals containing metal oxides of chromium, copper, and arsenic. CCA is used in pressure treated wood to protect wood from rotting due to insects and microbial agents.

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

- (1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation or management practice;
- (2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or
- (3) Fails to meet any emissions limitation or management practice in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

*Pressure treatment process* means a wood treatment process involving an enclosed vessel, usually a retort, and the application of pneumatic or hydrostatic pressure to expedite the movement of preservative liquid into the wood.

*Responsible official* means responsible official as defined in 40 CFR 70.2.

*Retort* means an airtight pressure vessel, typically a long horizontal cylinder, used for the pressure impregnation of wood products with a liquid wood preservative.

*Thermal treatment process* means a non-pressurized wood treatment process where the wood is exposed to a heated preservative.

*Wood preserving* means the pressure or thermal impregnation of chemicals into wood to provide effective long-term resistance to attack by fungi, bacteria, insects, and marine borers.

**§ 63.11434 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, 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 paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90

(3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

As required in § 63.11432, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 1 TO SUBPART QQQQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQ

Citation	Subject	Applies to subpart QQQQQ?	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12) (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability .....	Yes.	
63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved .....	No.	
63.2 .....	Definitions .....	Yes.	
63.3 .....	Units and Abbreviations .....	Yes.	
63.4 .....	Prohibited Activities and Circumvention.	Yes.	
63.5 .....	Preconstruction Review and Notification Requirements.	No.	

TABLE 1 TO SUBPART QQQQQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQQ—  
Continued

Citation	Subject	Applies to subpart QQQQQQ?	Explanation
63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes.	
63.6(e)(3)(i), (e)(3)(iii)–(e)(3)(ix), (f), (g), (h)(1), (h)(2), (h)(4), (h)(5)(i)–(h)(5)(iii), (h)(v)(v), (h)(6)–(h)(9).	.....	No .....	Subpart QQQQQQ does not require startup, shutdown, and malfunction plan or contain emission or opacity limits.
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved .....	No.	
63.7 .....	Performance Testing Requirements.	No .....	Subpart QQQQQQ does not require performance tests.
63.8(a)(1), (a)(2), (a)(4), (b), (c), (d), (e), (f), (g).	Monitoring Requirements .....	No .....	Subpart QQQQQQ does not require monitoring of emissions.
63.8(a)(3) .....	Reserved .....	No.	
63.9(a), (b)(1), (b)(2), (b)(4), (b)(5), (c), (d), (h)(1), (h)(6), (i), (j).	Notification Requirements .....	Yes.	
63.9(b)(2)(i)–(b)(2)(v), (h)(2)(i)–(h)(2)(ii), (h)(3), (h)(5).	.....	Yes.	
63.9(e), (f), (g) .....	.....	No.	
63.9(b)(3), (h)(4) .....	Reserved .....	No.	
63.10(a), (b), (c)(1), (c)(5)–(c)(8), (c)(10)–(c)(14), (d), (e), (f).	Recordkeeping and Reporting Requirements.	No .....	Subpart QQQQQQ establishes requirements for a report of deviations within 30 days.
63.10(c)(2)–(c)(4), (c)(9) .....	Reserved .....	No.	
63.11 .....	Control Device Requirements ..	No .....	Subpart QQQQQQ does not require flares.
63.12 .....	State Authorities and Delegations.	Yes.	
63.13 .....	Addresses .....	Yes.	
63.14 .....	Incorporations by Reference ....	Yes.	
63.15 .....	Availability of Information and Confidentiality.	Yes.	
63.16 .....	Performance Track Provisions	Yes.	

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