

labor monitoring system they intend to market.

## II. What is The Environmental Impact Of This Rule?

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Thus, neither an environmental assessment nor an environmental impact statement is required.

## III. What is The Economic Impact Of This Rule?

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because classification of this device into class II will relieve manufacturers of the cost of complying with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by lowering their costs, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing “any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.” The current threshold after adjustment for inflation is \$122 million, using the most current (2005) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

## IV. Does This Final Rule Have Federalism Implications?

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

## V. How Does This Rule Comply with the Paperwork Reduction Act of 1995?

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 is not required.

## VI. What References are on Display?

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition from Barnev Ltd., dated October 15, 2006.

## List of Subjects in 21 CFR Part 884

Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 884 is amended as follows:

### PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

■ 1. The authority citation for 21 CFR part 884 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 884.2800 is added to subpart C to read as follows:

#### § 884.2800 Computerized Labor Monitoring System.

(a) *Identification.* A computerized labor monitoring system is a system intended to continuously measure cervical dilation and fetal head descent and provide a display that indicates the progress of labor. The computerized labor monitoring system includes a monitor and ultrasound transducers. Ultrasound transducers are placed on

the maternal abdomen and cervix and on the fetal scalp to provide the matrix of measurements used to produce the display.

(b) *Classification.* Class II (special controls). The special controls are the FDA guidance document entitled: “Guidance for Industry and Food and Drug Administration Staff; Class II Special Controls Guidance Document: Computerized Labor Monitoring Systems.” See § 884.1(e) for availability of this guidance document.

Dated: April 13, 2007.

**Linda S. Kahan,**

*Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. E7–7702 Filed 4–23–07; 8:45 am]

BILLING CODE 4160–01–S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA–HQ–OAR–2002–0093; FRL–8304–2]

RIN 2060–AN10

### National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks; National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on amendments to the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks (Automobiles and Light-Duty Trucks NESHAP) which were promulgated on April 26, 2004, under the authority of section 112(d) of the Clean Air Act. The direct final rule amends provisions in the Automobiles and Light-Duty Trucks NESHAP to clarify the interaction between the Automobiles and Light-Duty Trucks NESHAP and the National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products (Plastic Parts NESHAP), to clarify the meaning of certain regulatory provisions, and to correct certain errors identified in the regulatory text. EPA is also taking direct final action on amendments to the Plastic Parts NESHAP to clarify that screen printing is not subject to that rule.

**DATES:** The direct final rule is effective on June 25, 2007 without further notice,

unless EPA receives adverse written comment or a public hearing is requested. If we receive adverse comment or a request for a public hearing, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule, or the relevant provisions of this rule, will not take effect. Written comments must be received on or before May 24, 2007 unless a public hearing is requested by May 4, 2007. If a public hearing is requested, written comments must be received on or before June 8, 2007. If anyone contacts EPA requesting to speak at a public hearing, a public hearing will be held on May 9, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2002-0093, 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) and [salman.dave@epa.gov](mailto:salman.dave@epa.gov).
- *Fax*: (202) 566-1741 and (919) 541-0246.

- *Mail*: U.S. Postal Service, send comments to: Air and Radiation Docket (6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery*: In person or by courier, deliver comments to: Air and Radiation Docket (6102T), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

**Instructions.** Direct your comments to Docket ID No. EPA-HQ-OAR-2002-0093. 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA West Building, 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 and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Mr. David Salman, EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), Research Triangle Park, NC 27711; telephone number (919) 541-0859; fax number (919) 541-0246; e-mail address: [salman.dave@epa.gov](mailto:salman.dave@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Why is EPA using a direct final rule?** EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. This direct final rule amends provisions in the Automobiles and Light-Duty Trucks

NESHAP to clarify the interaction between the Automobiles and Light-Duty Trucks NESHAP and the Plastic Parts NESHAP, to clarify the meaning of certain regulatory provisions, and to correct certain errors identified in the regulatory text. The direct final rule also amends the Plastic Parts NESHAP to clarify that screen printing is not subject to that rule.

However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule if adverse comments are received on this direct final rule or a public hearing is requested, and the direct final rule is, therefore, withdrawn. We will not institute a second comment period on the proposed rule. Any parties interested in commenting must do so at this time. For further information about commenting on this direct final rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment or a public hearing is requested, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

If we receive adverse comment on a distinct provision of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on any other provision.

**Submitting CBI.** Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on 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.

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

Category	NAICS* code	Examples of potentially regulated entities
Industry .....	336111 336112 336211 336120 323113	Automobile manufacturing. Light truck and utility vehicle manufacturing. Motor vehicle body manufacturing. Heavy duty truck manufacturing. Commercial screen printing.

\* 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 regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria of the rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

**Public Hearing.** If a public hearing is held, it will be held at 10 a.m. at the EPA's Environmental Research Center Auditorium, Research Triangle Park, NC, or at an alternate site nearby.

**Judicial Review.** Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the direct final rule amendments is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by June 25, 2007. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule amendments may not be challenged separately in any civil or criminal proceeding brought by EPA to enforce these requirements.

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

- I. Background
- II. Amendments
  - A. Applicability
  - B. Recordkeeping
  - C. Electrodeposition Primer
  - D. Transfer Efficiency
  - E. Equations
  - F. Monitoring
  - G. Uncounted Capture and Control
  - H. Definitions
- III. Statutory and Executive Order Reviews
  - A. Executive Order 12866, Regulatory Planning and Review

- B. Paperwork Reduction Act
- C. Regulatory Flexibility
- D. Unfunded Mandates Reform Act
- E. Executive Order 13132, Federalism
- F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks
- H. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
- J. Congressional Review Act

## I. Background

On April 26, 2004, we issued the final Automobiles and Light-Duty Trucks NESHAP (69 FR 22602). The final NESHAP established standards to control organic hazardous air pollutant (HAP) emissions from new and existing automobile and light-duty truck surface coating operations. This action amends the final Automobiles and Light-Duty Trucks NESHAP to clarify the interaction between that rule and the Plastic Parts NESHAP, to clarify the meaning of certain regulatory provisions, and to correct certain errors in the regulatory text. On April 19, 2004, we issued the final Plastic Parts NESHAP (69 FR 20968). The final NESHAP established standards to control organic hazardous air pollutant (HAP) emissions from new and existing plastic parts coating operations. Today's action amends the Plastic Parts NESHAP to clarify that screen printing is not subject to that rule. None of the amendments will have any effect on the stringency of the rules.

## II. Amendments

All of the amendments discussed below are amendments to the Automobiles and Light-Duty Trucks NESHAP (40 CFR part 63, subpart IIII), except for one amendment to the Plastic Parts NESHAP (40 CFR part 63, subpart PPPP) which is discussed at the end of section II.A. "*Applicability.*"

### A. Applicability

Plastic or composite body parts are used in many automobiles and light-duty trucks. These parts are typically

fabricated (molded, stamped, formed, etc.) and prime coated at plastic or composites molding facilities, and then sent to automobile or light-duty truck assembly facilities where they receive an additional prime coat and topcoat. The coating activities at plastic or composites molding facilities were considered in the development of the Plastic Parts NESHAP (40 CFR part 63, subpart PPPP) and are subject to that regulation. The coating activities at automobile or light-duty truck assembly facilities were considered in the development of the final Automobiles and Light-Duty Trucks NESHAP and are subject to that regulation.

The application of "topcoat to new automobile or new light-duty truck bodies or body parts for new automobiles or new light-duty trucks" is used as an applicability criterion in 40 CFR 63.3081(b) of the final Automobiles and Light-Duty Trucks NESHAP. The intent of this applicability criterion was to keep the coating of plastic or composite body parts at plastic or composites molding facilities, which is subject to the Plastic Parts NESHAP, from being subject to the Automobiles and Light-Duty Trucks NESHAP. The structure of this applicability criterion was based on our knowledge, at the time, of the application of prime coat to plastic or composite body parts at plastic or composites molding facilities. Specifically, at the time we developed the applicability criterion, we were unaware of any application of topcoat to plastic or composite body parts occurring at plastic or composites molding facilities.

We have since learned that there is some application of topcoat to plastic or composite body parts at plastic or composites molding facilities. The applicability criterion in 40 CFR 63.3081(b) of the Automobiles and Light-Duty Trucks NESHAP, therefore, could have the unintended consequence of making coating at plastic and composite molding facilities subject to Automobiles and Light-Duty Trucks NESHAP. We have amended 40 CFR 63.3081(b) and added a definition of "plastic or composites molding facility" to clarify that the application of topcoat to plastic or composite body parts at a

plastic or composites molding facility does not trigger applicability of this subpart as long as all of the body parts topcoated at the plastic or composites molding facility for use in new automobiles or new light-duty trucks were fabricated (molded, stamped, formed, etc.) at that facility or at another plastic or composites molding facility with the same owner or operator, none of the new vehicles in which these body parts are used are assembled at the plastic or composites molding facility, and the plastic or composites molding facility does not topcoat all of the body parts for any single new automobile or new light-duty truck.

We are also amending the Plastic Parts NESHAP because there has been some confusion as to whether that NESHAP regulates screen printing. Specifically, the definition of the term "coating" in the Plastic Parts NESHAP includes the word "ink." Some screen printing is done on plastic. Screen printing on plastic, however, is part of the printing and publishing source category. The printing and publishing source category is addressed in the National Emission Standards for the Printing and Publishing Industry (40 CFR part 63, subpart KK). We are, therefore, amending 40 CFR 63.4481 of the Plastic Parts NESHAP to clarify that screen printing is not subject to the Plastic Parts NESHAP.

#### B. Recordkeeping

After publication of the final Automobiles and Light-Duty Trucks NESHAP, a question was raised about the types of records required to be kept under 40 CFR 63.3130(o). The question was whether these records were limited to operating instructions, or whether other records, such as construction blueprints, also needed to be maintained. We have amended 40 CFR 63.3130(o) to clarify that the operating instructions for each add-on control device and each continuous parameter monitoring system must be kept on-site for the life of the equipment in a location readily available to plant operators and inspectors.

#### C. Electrodeposition Primer

An electrodeposition primer tank or system typically contains tens of thousands of gallons of material. As a result, monthly material usage for electrodeposition primer is typically determined by tracking additions to the tank or system over the month. This contrasts to other coating operations, such as topcoat or primer-surfacer, where monthly usage of each material is typically determined by tracking additions to a small (e.g., 500 gallon)

day tank over the month and the change in the amount of material in the day tank from the beginning of the month to the end of the month.

After publication of the final rule, we were asked if we could clarify that material usage and other parameters relevant to electrodeposition primer are determined based upon additions to the tank or system over the month. We have amended 40 CFR 63.3161(e) to clarify that for electrodeposition primer the mass fraction of organic HAP, density and volume of each material used is to be determined for each material added to the tank or system during the month. We have amended 40 CFR 63.3161(f) to clarify that for electrodeposition primer the volume fraction of coating solids is to be determined for each material added to the tank or system during the month.

The determination of capture efficiency is discussed in 40 CFR 63.3165 of the final rule. The introductory text to 40 CFR 63.3165 of the final rule states that a bake oven air seal is not considered a natural draft opening to a permanent total enclosure or a temporary total enclosure provided the direction of air movement across the interface between the bake oven air seal and the bake oven is into the bake oven. This includes electrodeposition bake oven air seals. Capture of emissions from electrodeposition bake ovens is also discussed in 40 CFR 63.3171(f) of the final rule. After publication of the final rule, we were asked if we could clarify that electrodeposition bake oven air seals were intended to be considered in the same manner under 40 CFR 63.3171(f) as they are considered in 40 CFR 63.3165 introductory text. We have amended 40 CFR 63.3171(f) to clarify that an electrodeposition bake oven air seal is not considered a natural draft opening provided the direction of air movement across the interface between the bake oven air seal and the bake oven is into the bake oven.

#### D. Transfer Efficiency

The final rule requires that transfer efficiency be determined for many coatings used in automobile or light-duty truck coating operations. The final rule states that transfer efficiency may be determined using ASTM Method D5066-91 (Reapproved 2001), Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints-Weight Basis (incorporated by reference, see 40 CFR 63.14), or the guidelines presented in Protocol for Determining Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck

Topcoat Operations, EPA-450/3-88-018 (Docket ID No. OAR-2002-0093 and Docket ID No. A-2001-22). The final rule provides default transfer efficiency values for electrodeposition primer coatings, glass bonding primers, glass bonding adhesives, and final repair coatings. The guidelines provide default transfer efficiency values for certain specialty or low-use coatings such as blackout and interior color.

After publication of the final rule, a question was raised about whether the default transfer efficiency values in the guidelines could be used for chip resistant edge primer, lower body anti-chip coating and underbody anti-chip coating. These types of coatings are not explicitly mentioned in the guidelines, because the guidelines do not discuss primer-surfacer operations in detail. We believe it is appropriate to apply the default transfer efficiency values in the guidelines to these types of coatings and are amending the rule accordingly. Similar to blackout, lower-body anti-chip coating and chip resistant edge primer are applied to relatively small areas of the vehicle. Underbody anti-chip coatings are typically applied with efficient airless applicators. Specifically, we have amended 40 CFR 63.3161(g) to provide default transfer efficiency values for these types of coatings. We have also added definitions of "chip resistant edge primer," "lower body anti-chip coating," and "underbody anti-chip coating," and revised the definitions of "anti-chip coating," "deadener," and "primer-surfacer" to better identify the types of coatings for which default transfer efficiency values can be used.

#### E. Equations

We have corrected Equation 5 in 40 CFR 63.3161(l) by removing "/100" from the end of the equation. This division by 100 is incorrect because the transfer efficiency (TE) is expressed as a decimal value rather than as a percentage.

We have revised Equation 4 in § 63.3165(e) by changing the symbol "Pi" to "Pv,i" to emphasize that the panel test result in this equation is expressed in mass (kg) of volatile organic compounds (VOC) per volume (liter) of coating solids deposited. This helps distinguish this equation from Equation 7 in 40 CFR 63.3165(e) where the symbol "Pm,i" is used to emphasize that the panel test result in that equation is expressed in mass (kg) of VOC per mass (kg) of coating solids deposited.

We have revised the description of the symbol "Wvoc<sub>c,i</sub>" in Equations 6 and 7 in 40 CFR 63.3165(e) to specify that the guidelines for combining analytical

VOC content and formulation solvent content are in Section 9 of the Protocol for Determining Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Coating Operations (Protocol). The description of the symbol " $W_{VOC_{ci}}$ " in Equations 6 and 7 in 40 CFR 63.3165(e) of the final rule provided only a general reference to the Protocol.

We have corrected Equation 7 in 40 CFR 63.3165(e) by adding a multiplier of "100" to the numerator of the equation. This multiplier is needed in order for the result of the equation to be expressed as a percentage.

#### F. Monitoring

The temperature operating limits for thermal oxidizers, catalytic oxidizers and condensers are identified as "3-hour" operating limits in Table 1 of the final rule. The "3-hour" specification was inadvertently omitted from 40 CFR 63.3167(a)(2), (b)(2), and (d)(2) of the final rule. We have revised 40 CFR 63.3167(a)(2), (b)(2), and (d)(2) to clarify that these operating limits are 3-hour averages.

Catalyst activity testing and internal inspection of the catalyst are specified in 40 CFR 63.3167(b)(6) of the final Automobiles and Light-Duty Trucks rule. Similar specifications are provided in 40 CFR 63.4567(b)(4) of the Plastic Parts NESHAP. The specifications in the Plastic Parts NESHAP include an explanation of how to proceed if problems are found during annual catalyst activity testing or annual internal inspection of the catalyst. This explanation was inadvertently omitted from the final Automobiles and Light-Duty Trucks rule. We have revised 40 CFR 63.3167(b)(6) to explain how to proceed if problems are found during annual catalyst activity testing or annual internal inspection of the catalyst.

The exceptions provided in 40 CFR 63.3167(f), for capture devices that are part of a PTE or that capture emissions from a downdraft spray booth or from a flashoff area or bake oven associated with a downdraft spray booth, were inadvertently omitted from the entry for "Emission capture system that is not a PTE" in Table 1 of the final rule. We have revised Table 1 of the final rule to make the entry for "Emission capture system that is not a PTE" consistent with 40 CFR 63.3167(f) of the final rule and to correct a typographical error.

#### G. Uncounted Capture and Control

Some facilities have capture systems or add-on control devices installed and operated to control VOC emissions which they do not need to take into account in order to demonstrate

compliance with the emission limitations for organic hazardous air pollutants in the final rule. After publication of the final rule, we were asked whether testing and monitoring requirements apply to capture systems or add-on control devices that are not taken into account in demonstrating compliance with the emission limitations for organic hazardous air pollutants in the final rule. Other surface coating NESHAP have separate compliance demonstration provisions for "emission rate without add-on control" and "emission rate with add-on control". We intended to provide the same flexibility in the Automobiles and Light-Duty Trucks NESHAP. We, therefore, have added new sections 40 CFR 63.3169 and 40 CFR 63.3174 and added a definition of "controlled coating operation" to clarify that the requirements for capture system or add-on control device reporting, recordkeeping, performance tests, monitoring, operating parameters, capture efficiency, add-on control device efficiency, destruction efficiency, or removal efficiency do not apply to capture systems or add-on control devices which the owner or operator chooses not to take into account when demonstrating compliance with the applicable emission limitations. If, at a later date, the owner or operator decides to take any such capture system or add-on control device into account when demonstrating compliance with the emission limitations, then, at that time, the owner or operator must comply with the reporting, recordkeeping, performance tests, monitoring, operating parameters, capture efficiency, add-on control device efficiency, destruction efficiency, or removal efficiency for that capture system or add-on control device.

#### H. Definitions

In addition to the definition changes described above, we have made several other changes to the definitions in the final rule. After publication of the final rule, we were asked if we could clarify that "bake oven air seals" may be present both on bake ovens associated with spray booths and on bake ovens associated with electrodeposition primer operations. We have revised the definition of "bake oven air seal" to clarify that both bake ovens associated with spray booth and electrodeposition primer bake ovens may have bake oven air seals. We have also revised the definition of "spray booth air seal" to make it consistent with the definition of "bake oven air seal." The definition of "bake oven air seal" referred to "entry or entry vestibule to or an exit or exit

vestibule" whereas the definition of "spray booth air seal" inadvertently referred only to "entry vestibule or exit vestibule." We have revised the definition of "touchup bottle" to allow the container size to be up to 0.25 liters and to clarify that the applicator may be a brush or other non-atomizing applicator.

### III. Statutory and Executive Order Reviews

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

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

#### B. Paperwork Reduction Act

This action does not impose any new information collection burden. OMB has previously approved the information collection requirements contained in the existing regulations (40 CFR part 63, subpart III) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060-0550, EPA ICR No. 2045.03. A copy of the Information Collection Request (ICR) may be obtained from Ms. Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division (2822), EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at [auby.susan@epa.gov](mailto:auby.susan@epa.gov), or by calling (202) 566-1672.

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

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

### C. Regulatory Flexibility Analysis

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 will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's direct final rule on small entities, small entity is defined as: (1) A small business according to Small Business Administration size standards for companies identified by NAICS codes 336111 (automobile manufacturing) and 336112 (light truck and utility vehicle manufacturing) with 1,000 or fewer employees or by NAICS code 323113 (commercial screen printing) with 500 or fewer employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Based on the above definition, there are no small entities presently engaged in automobile and light-duty truck surface coating. While there are small entities presently engaged in commercial screen printing, today's direct final rule amendments would not impose any requirements on commercial screen printers.

After considering the economic impacts of the final rule on small entities, EPA has concluded and hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This is based on the observation that this action affects no small entities since none are engaged in the surface coating of automobiles and light-duty trucks, and no requirements are imposed on commercial screen printers.

### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local,

and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows 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 direct final rule amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The direct final rule amendments add no additional burden on sources. Thus, the direct final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

### E. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The direct final rule amendments do not have federalism implications. They will not have substantial direct effects

on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. No facilities subject to the direct final rule amendments are owned by State or local governments. Therefore, State and local governments will not have any direct compliance costs resulting from the direct final rule amendments. Furthermore, the direct final rule amendments do not require these governments to take on any new responsibilities. Thus, Executive Order 13132 does not apply to the direct final rule amendments.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The direct final rule amendments do not have tribal implications as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, because we are not aware of any Indian tribal governments or communities affected by the direct final rule amendments. Thus, Executive Order 13175 does not apply to the direct final rule amendments.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns 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, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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. The direct final rule amendments are not subject to Executive Order 13045 because they are based solely on technology performance.

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

The direct final rule amendments are not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because they are not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

The direct final rule amendments do not involve technical standards. Therefore, EPA is not considering the use of any VCS.

*J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing the direct final rule amendments and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the direct final rule amendments in the **Federal Register**. A “major rule” cannot take effect until 60 days after it is published in the **Federal Register**. The direct final rule amendments are not a “major rule” as defined by 5 U.S.C. 804(2). The direct final rule amendments will be effective on June 25, 2007.

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

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

Dated: April 18, 2007.

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

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

**PART 63—[AMENDED]**

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

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

**Subpart IIII—[Amended]**

■ 2. Section 63.3081 is amended by revising paragraph (b) to read as follows:

**§ 63.3081 Am I subject to this subpart?**

\* \* \* \* \*

(b) You are subject to this subpart if you own or operate a new, reconstructed, or existing affected source, as defined in § 63.3082, that, except as noted in paragraph (b)(1) of this section, is located at a facility which applies topcoat to new automobile or new light-duty truck bodies or body parts for new automobiles or new light-duty trucks, and that is a major source, is located at a major source, or is part of a major source of emissions of hazardous air pollutants (HAP). You are subject to this subpart if you own or operate a new, reconstructed, or existing affected source, as defined in § 63.3082, in which you choose to include, pursuant to § 63.3082(c), any coating operations which apply coatings to new other motor vehicle bodies or body parts for new other motor vehicles; parts intended for use in new automobiles, new light-duty trucks, or new other motor vehicles; or aftermarket repair or replacement parts for automobiles, light-duty trucks, or other motor vehicles; and the affected source is located at a facility that is a major source, is located at a major source, or is part of a major source of emissions of HAP. A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (Mg) (10 tons) or more per year or any combination of HAP at a rate of 22.68 Mg (25 tons) or more per year.

(1) You are not subject to this subpart if you meet all of the criteria of paragraphs (b)(1)(i) through (iii) of this section:

(i) Your coating operation is located at a plastic or composites molding facility;

(ii) All of the body parts topcoated at your facility for use in new automobiles or new light-duty trucks were fabricated (molded, stamped, formed, etc.) at your facility or at another plastic or composites molding facility which you own or operate, and none of the new vehicles in which these body parts are used are assembled at your facility; and

(iii) You do not topcoat all of the body parts for any single new automobile or new light-duty truck at your facility.

(2) [Reserved]

\* \* \* \* \*

■ 3. Section 63.3130 is amended by revising paragraph (o) to read as follows:

**§ 63.3130 What records must I keep?**

\* \* \* \* \*

(o) For each add-on control device and for each continuous parameter monitoring system, a copy of the equipment operating instructions must be maintained on-site for the life of the equipment in a location readily available to plant operators and inspectors. You may prepare your own equipment operating instructions, or they may be provided to you by the equipment supplier or other third party.

■ 4. Section 63.3161 is amended by:

■ a. Revising paragraph (e);

■ b. Revising paragraph (f) introductory text;

■ c. Adding a new sentence at the end of paragraph (g); and

■ d. Revising paragraph (l) to read as follows:

**§ 63.3161 How do I demonstrate initial compliance?**

\* \* \* \* \*

(e) *Determine the mass fraction of organic HAP, density, and volume used.* Follow the procedures specified in § 63.3151(a) through (c) to determine the mass fraction of organic HAP and the density and volume of each coating and thinner used during each month. For electrodeposition primer operations, the mass fraction of organic HAP, density, and volume used must be determined for each material added to the tank or system during each month.

(f) *Determine the volume fraction of coating solids for each coating.* You must determine the volume fraction of coating solids (liter of coating solids per liter of coating) for each coating used during the compliance period by a test or by information provided by the supplier or the manufacturer of the material, as specified in paragraphs (f)(1) and (2) of this section. For electrodeposition primer operations, the volume fraction of solids must be determined for each material added to the tank or system during each month. If test results obtained according to paragraph (f)(1) of this section do not agree with the information obtained under paragraph (f)(2) of this section, the test results will take precedence unless, after consultation, the facility demonstrates to the satisfaction of the enforcement authority that the facility's data are correct.

(g) \* \* \* For blackout, chip resistant edge primer, interior color, in-line repair, lower body anti-chip coatings, or underbody anti-chip coatings, you may assume 40 percent transfer efficiency for air atomized spray, 55 percent transfer efficiency for electrostatic spray and high volume-low pressure spray, and 80

percent transfer efficiency for airless spray.

\* \* \* \* \* (l) Calculate the total volume of coating solids deposited. Determine the total volume of coating solids deposited, liters, in the combined electrodeposition primer, primer-surfacer, topcoat, final repair, glass bonding primer, and glass

bonding adhesive operations plus all coatings and thinners, except for deadener materials and for adhesive and sealer materials that are not components of glass bonding systems used in coating operations added to the affected source pursuant to § 63.3082(c) using Equation 5 of this section:

$$V_{sdep} = \sum_{i=1}^m (Vol_{c,i})(V_{s,i})(TE_{c,i}) \quad (Eq. 5)$$

Where:

- $V_{sdep}$  = Total volume of coating solids deposited during the month, liters.
- $Vol_{c,i}$  = Total volume of coating, i, used during the month, liters.
- $V_{s,i}$  = Volume fraction of coating solids for coating, i, liter solids per liter coating, determined according to § 63.3161(f).
- $TE_{c,i}$  = Transfer efficiency of coating, i, determined according to § 63.3161(g),

expressed as a decimal, for example 60 percent must be expressed as 0.60.  
M = Number of coatings used during the month.

\* \* \* \* \*

- 5. Section 63.3165 is amended by:
- a. Revising Equation 4 in paragraph (e) introductory text;

- b. Revising Equation 6 in paragraph (e)(2); and
- c. Revising paragraph (e)(3) to read as follows:

**§ 63.3165 How do I determine the emission capture system efficiency?**

\* \* \* \* \* (e) \* \* \*

$$CE_i = (P_{v,i})(V_{sdep,i})(100)/(VOC_i) \quad (Eq. 4)$$

Where:

- $CE_i$  = Capture efficiency for coating, i, or for the group of coatings, including coating, i, for the flash-off area or bake oven for which the panel test is conducted, percent.
- $P_{v,i}$  = Panel test result for coating, i, or for the coating representing coating, i, in the panel test, kg of VOC per liter of coating solids deposited.

$V_{sdep,i}$  = Volume of coating solids deposited per volume of coating used for coating, i, or composite volume of coating solids deposited per volume of coating used for the group of coatings including coating, i, in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted, liter of coating solids deposited per liter of coating used, from Equation 5 of this section.

$VOC_i$  = Mass of VOC per volume of coating for coating, i, or composite mass of VOC per volume of coating for the group of coatings including coating, i, kg per liter, from Equation 6 of this section.

\* \* \* \* \* (2) \* \* \*

$$VOC_i = (D_{c,i})(Wvoc_{c,i}) \quad (Eq. 6)$$

Where:

- $VOC_i$  = Mass of VOC per volume of coating for coating, i, or composite mass of VOC per volume of coating for the group of coatings including coating, i, used during the month in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted, kg VOC per liter coating.
- $D_{c,i}$  = Density of coating, i, or average density of the group of coatings, including coating, i, kg coating per liter coating, density determined according to § 63.3151(b).
- $Wvoc_{c,i}$  = Mass fraction of VOC in coating, i, or average mass fraction of VOC for the group of coatings, including coating, i, kg VOC per kg coating, determined by Method 24 (appendix A to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in Section 9 of "Protocol for Determining Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck

Topcoat Operations," EPA-450/3-88-018 (Docket ID No. OAR-2002-0093 and Docket ID No. A-2001-22).

(3) As an alternative, you may choose to express the results of your panel tests in units of mass of VOC per mass of coating solids deposited and convert such results to a percent using Equation 7 of this section. If you panel test representative coatings, then you may convert the panel test result for each representative coating either to a unique percent capture efficiency for each coating grouped with that representative coating by using coating specific values for the mass of coating solids deposited per mass of coating used, mass fraction VOC, transfer efficiency, and mass fraction solids in Equations 7 and 8 of this section; or to a composite percent capture efficiency for the group of coatings by using composite values for

the group of coatings for the mass of coating solids deposited per mass of coating used and average values for the mass of VOC per volume of coating, average values for the group of coatings for mass fraction VOC, transfer efficiency, and mass fraction solids in Equations 7 and 8 of this section. If you panel test each coating, then you must convert the panel test result for each coating to a unique percent capture efficiency for that coating by using coating specific values for the mass of coating solids deposited per mass of coating used, mass fraction VOC, transfer efficiency, and mass fraction solids in Equations 7 and 8 of this section. Panel test results expressed in units of mass of VOC per mass of coating solids deposited must be converted to percent capture efficiency using Equation 7 of this section:



$$CE_i = (P_{m,i})(W_{sdep,i})(100)/(W_{voc,c,i}) \quad (Eq. 7)$$

Where:

CE<sub>i</sub> = Capture efficiency for coating, i, or for the group of coatings including coating, i, for the flash-off area or bake oven for which the panel test is conducted, percent.

P<sub>m,i</sub> = Panel test result for coating, i, or for the coating representing coating, i, in the panel test, kg of VOC per kg of coating solids deposited.

W<sub>sdep,i</sub> = Mass of coating solids deposited per mass of coating used for coating, i, or composite mass of coating solids deposited per mass of coating used for the group of coatings, including coating, i, in the spray booth(s) preceding the flash-off area or bake oven for which the panel test is conducted, kg of solids deposited per kg of coating used, from Equation 8 of this section.

W<sub>voc,c,i</sub> = Mass fraction of VOC in coating, i, or average mass fraction of VOC for the group of coatings, including coating, i, kg VOC per kg coating, determined by Method 24 (appendix A to 40 CFR part 60) or the guidelines for combining analytical VOC content and formulation solvent content presented in Section 9 of "Protocol for Determining Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA-450/3-88-018 (Docket ID No. OAR-2002-0093 and Docket ID No. A-2001-22).

\* \* \* \* \*

- 6. Section 63.3167 is amended by:
- a. Revising the second sentence of paragraph (a)(2);
- b. Revising paragraph (b)(2);
- c. Revising paragraph (b)(6); and
- d. Revising the second sentence of paragraph (d)(2) to read as follows:

**§ 63.3167 How do I establish the add-on control device operating limits during the performance test?**

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \* This average combustion temperature is the minimum 3-hour average operating limit for your thermal oxidizer.

\* \* \* \* \*

(b) \* \* \*

(2) Use all valid data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. The minimum 3-hour average operating limits for your catalytic oxidizer are the average temperature just before the catalyst bed maintained during the performance test of that catalytic oxidizer and 80 percent of the average temperature difference across the catalyst bed maintained

during the performance test of that catalytic oxidizer, except during periods of low production, the latter minimum operating limit is to maintain a positive temperature gradient across the catalyst bed. A low production period is when production is less than 80 percent of production rate during the performance test of that catalytic oxidizer.

\* \* \* \* \*

(6) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(4) or (b)(5) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(6)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (*i.e.*, conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures. If problems are found during the catalyst activity test, you must replace the catalyst bed or take other corrective action consistent with the manufacturer's recommendations.

(ii) Monthly external inspection of the catalytic oxidizer system, including the burner assembly and fuel supply lines for problems and, as necessary, adjust the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found during the annual internal inspection of the catalyst, you must replace the catalyst bed or take other corrective action consistent with the manufacturer's recommendations. If the catalyst bed is replaced and is not of like or better kind and quality as the old catalyst, then you must conduct a new performance test to determine destruction efficiency according to § 63.3166. If a catalyst bed is replaced and the replacement catalyst is of like or better kind and quality as the old catalyst, then a new performance test to determine destruction efficiency is not required and you may continue to use the previously established operating limits for that catalytic oxidizer.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \* This average condenser outlet gas temperature is the maximum 3-hour average operating limit for your condenser.

\* \* \* \* \*

- 7. Section 63.3169 is added to read as follows:

**§ 63.3169 What are the requirements for a capture system or add-on control device which is not taken into account when demonstrating compliance with the applicable emission limitations?**

You may have capture systems or add-on control devices which you choose not to take into account when demonstrating compliance with the applicable emission limitations. For any such capture system or add-on control device, you are not required to comply with the requirements of §§ 63.3093, 63.3100, 63.3110, 63.3120, 63.3130, 63.3131, and 63.3160 through 63.3168 with regard to notification, reporting, recordkeeping, performance tests, monitoring, operating parameters, capture efficiency, add-on control device efficiency, destruction efficiency, or removal efficiency. If, at a later date, you decide to take any such capture system or add-on control device into account when demonstrating compliance with the emission limitations, then at that time you must comply with the requirements of §§ 63.3093, 63.3100, 63.3110, 63.3120, 63.3130, 63.3131, and 63.3160 through 63.3168 with regard to notification, recordkeeping, performance tests, monitoring, operating parameters, capture efficiency, add-on control device efficiency, destruction efficiency, and removal efficiency, as applicable, for that capture system or add-on control device.

- 8. Section 63.3171 is amended by revising paragraph (f) to read as follows:

**§ 63.3171 How do I demonstrate initial compliance?**

\* \* \* \* \*

(f) *Capture of electrodeposition bake oven emissions.* You must show that the electrodeposition bake oven meets the criteria in sections 5.3 through 5.5 of Method 204 of appendix M to 40 CFR part 51 and directs all of the exhaust gases from the bake oven to an add-on control device. For purposes of this showing, an electrodeposition bake oven air seal is not considered a natural draft opening provided you demonstrate that the direction of air movement across the interface between the bake oven air seal and the bake oven is into the bake oven. You may use lightweight strips of fabric or paper, or smoke tubes to make such demonstrations. You cannot count air flowing from an electrodeposition bake oven air seal into an electrodeposition bake oven as air flowing through a natural draft opening unless you elect to treat that

electrodeposition bake oven air seal as a natural draft opening.

\* \* \* \* \*

■ 9. Section 63.3174 is added to read as follows:

**§ 63.3174 What are the requirements for a capture system or add-on control device which is not taken into account when demonstrating compliance with the applicable emission limitations?**

You may have capture systems or add-on control devices which you choose not to take into account when demonstrating compliance with the applicable emission limitations. For any such capture system or add-on control device, you are not required to comply with the requirements of §§ 63.3093, 63.3100, 63.3110, 63.3120, 63.3130, 63.3131, and 63.3160 through 63.3168 with regard to notification, reporting, recordkeeping, performance tests, monitoring, operating parameters, capture efficiency, add-on control device efficiency, destruction efficiency, or removal efficiency. If, at a later date, you decide to take any such capture system or add-on control device into account when demonstrating compliance with the emission limitations, then at that time you must comply with the requirements of §§ 63.3093, 63.3100, 63.3110, 63.3120, 63.3130, 63.3131, and 63.3160 through 63.3168 with regard to notification, reporting, recordkeeping, performance tests, monitoring, operating parameters, capture efficiency, add-on control device efficiency, destruction efficiency, and removal efficiency, as applicable, for that capture system or add-on control device.

■ 10. Section 63.3176 is amended by:

■ a. Revising the definitions of “Anti-chip coating,” “Bake oven air seal,” “Controlled coating operation,” “Deadener,” “In-line repair,” “Primer-surfacer,” “Spray booth air seal,” and “Touchup bottle.”

■ b. Adding in alphabetical order definitions of “Chip resistant edge primer,” “Lower body anti-chip coating,” “Plastic or composites molding facility,” and “Underbody anti-chip coating” to read as follows:

**§ 63.3176 What definitions apply to this subpart?**

\* \* \* \* \*

*Anti-chip coating* means a specialty type of coating designed to reduce stone chipping damage. Anti-chip coating

may be applied to broad areas of the vehicle or to selected vehicle surfaces that are most vulnerable to impingement by stones and other road debris. Anti-chip coating is typically applied after the *electrodeposition primer* and before the *topcoat*. Anti-chip coating is a type of *primer-surfacer*.

\* \* \* \* \*

*Bake oven air seal* means an entry or entry vestibule to or an exit or exit vestibule from a bake oven which isolates the bake oven from the area immediately preceding (for an entry or entry vestibule) or immediately following (for an exit or exit vestibule) the bake oven. No significant VOC generating activity takes place in a bake oven air seal. Fresh air is supplied into a bake oven air seal and is then directed in part into the bake oven and in part into the area immediately preceding or immediately following the bake oven. All types of bake ovens, including ovens associated with spray booths and electrodeposition primer bake ovens, may have bake oven air seals.

\* \* \* \* \*

*Chip resistant edge primer* means an *anti-chip coating* applied to the leading edge of parts such as the hood or roof.

\* \* \* \* \*

*Controlled coating operation* means a *coating operation* from which some or all of the organic HAP emissions are routed through a *capture system* and an *add-on control device* which are taken into account when demonstrating compliance with an emission limitation in this subpart.

\* \* \* \* \*

*Deadener* means a specialty coating applied to selected vehicle surfaces primarily for the purpose of reducing the sound of road noise in the passenger compartment.

\* \* \* \* \*

*In-line repair* means the operation performed and coating(s) applied to correct damage or imperfections in the topcoat on parts that are not yet on a completely assembled motor vehicle. The curing of the coatings applied in these operations is accomplished at essentially the same temperature as that used for curing the previously applied topcoat. Also referred to as high bake repair or high bake reprocess. In-line repair is considered part of the topcoat operation.

\* \* \* \* \*

*Lower body anti-chip coating* means an *anti-chip coating* applied to lower body surfaces such as rocker panels, valence panels, lower portions of doors, or lower portions of fenders.

\* \* \* \* \*

*Plastic or composites molding facility* means a facility where the purchase cost of capital equipment used for plastic or composites molding, including presses, tooling, and associated material processing and handling equipment, is greater than the purchase cost of capital equipment used for the surface coating of new automobile or new light-duty truck bodies or body parts for new automobiles or new light-duty trucks.

*Primer-surfacer* means an intermediate protective coating applied on the *electrodeposition primer* and under the *topcoat*. Primer-surfacer provides adhesion, protection, and appearance properties to the total finish. Primer-surfacer may also be called *guide coat* or *surfacer*.

*Anti-chip coating* is a type of primer-surfacer.

\* \* \* \* \*

*Spray booth air seal* means an entry or entry vestibule to or exit or exit vestibule from a spray booth which isolates the spray booth from the area immediately preceding (for an entry or entry vestibule) or immediately following (for an exit or exit vestibule) the spray booth. No coating application or other VOC generating activity takes place in a spray booth air seal. Fresh air is supplied into a spray booth air seal and is then directed in part into the spray booth and in part into the area immediately preceding or immediately following the spray booth.

\* \* \* \* \*

*Touchup bottle* means a coating container with a volume of 0.25 liter or less used with a brush or other non-atomizing applicator.

\* \* \* \* \*

*Underbody anti-chip coating* means an *anti-chip coating* applied to the underbody or wheel wells primarily for the purpose of protecting these areas of the vehicle from stone chipping.

\* \* \* \* \*

■ 11. Table 1 to subpart III of part 63 is amended by revising entry 7 to read as follows:

TABLE 1 TO SUBPART III OF PART 63—OPERATING LIMITS FOR CAPTURE SYSTEMS AND ADD-ON CONTROL DEVICES

For the following device * * *	You must meet the following operating limit * * *	And you must demonstrate continuous compliance with the operating limit by
7. Emission capture system that is not a PTE.	a. The average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according to § 63.3167(f). This applies only to capture devices that are not part of a PTE that meets the criteria of § 63.3165(a) and that are not capturing emissions from a downdraft spray booth or from a flashoff area or bake oven associated with a downdraft spray booth.	i. Collecting the gas volumetric flow rate or duct static pressure for each capture device according to § 63.3168(g); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit.

**Subpart PPPP—[Amended]**

■ 12. Section 63.4481 is amended by revising paragraph (c) introductory text and adding paragraph (c)(17) to read as follows:

**§ 63.4481 Am I subject to this subpart?**

(c) This subpart does not apply to surface coating or a coating operation that meets any of the criteria of paragraphs (c)(1) through (17) of this section.

(17) Screen printing.

[FR Doc. E7-7760 Filed 4-23-07; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

[EPA-HQ-OAR-2006-0841; FRL-8304-1]  
RIN 2060-A034

**Regulation of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to Illinois Portion of the St. Louis, Illinois-Missouri Ozone Nonattainment Area**

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

**ACTION:** Final rule.

**SUMMARY:** Under section 211(k)(6) of the Clean Air Act, the Administrator of EPA shall require the sale of reformulated gasoline (RFG) in an ozone nonattainment area classified as marginal, moderate, serious or severe upon the application of the Governor of the state in which the nonattainment area is located. This final action extends the Act's prohibition against the sale of conventional gasoline (*i.e.*, gasoline that is not RFG) to the Illinois portion of the St. Louis, Illinois-Missouri moderate ozone nonattainment area. The Agency

will implement this prohibition for refiners and all other persons in the fuel distribution system other than retailers and wholesale purchaser-consumers on June 1, 2007. For retailers and wholesale purchaser-consumers, EPA's final action implements the prohibition on July 1, 2007. As of the compliance date for retailers and wholesale purchaser-consumers, this area will be treated as a covered area for all purposes of the Federal RFG program.

**DATES:** This final rule is effective April 20, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2006-0841. All documents in the docket are listed on the <http://www.regulations.gov> Web site. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air 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:** Kurt Gustafson, Transportation and Regional Programs Division (Mail Code 6406J), Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: 202-343-9219; fax number: 202-343-2800; e-mail address: [gustafson.kurt@epa.gov](mailto:gustafson.kurt@epa.gov).

**SUPPLEMENTARY INFORMATION:** Under section 211(k)(6) of the Clean Air Act, as amended (Act), the Administrator of

EPA must require the sale of reformulated gasoline in an ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe upon the application of the governor of the state in which the nonattainment area is located. This final action extends the prohibition set forth in section 211(k)(5) against the sale of conventional (*i.e.*, non-reformulated) gasoline to the Illinois portion of the St. Louis, Illinois-Missouri moderate ozone nonattainment area. For all persons other than retailers and wholesale purchaser-consumers (*i.e.*, refiners, importers, and distributors), this rule establishes the implementation date of the prohibition in Section 211(k)(5) as June 1, 2007. For retailers and wholesale purchaser-consumers, this rule establishes the implementation date of the prohibition in section 211(k)(5) on July 1, 2007. As of the implementation date for retailers and wholesale purchaser-consumers, the Illinois portion of the St. Louis, Illinois-Missouri ozone nonattainment area will be a covered area for all purposes in the Federal RFG program.

The final preamble and regulatory language are also available electronically from the **Federal Register** Web site or via the docket at the <http://www.regulations.gov> site listed above.

**General Information**

*Does This Action Apply to Me?*

This action may affect you if you produce, distribute, or sell gasoline for use in the Illinois portion of the St. Louis, Illinois-Missouri ozone nonattainment area.

The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.