ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0526; FRL–8466–6]

RIN 2060–AN21

National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA proposes national emission standards for hazardous air pollutants (NESHAP) for area sources engaged in paint stripping and miscellaneous surface coating operations. EPA has listed ''Paint Stripping,'' ''Plastic Parts and Products (Surface Coating),'' and ''Autobody Refinishing Paint Shops'' as area sources of hazardous air pollutants (HAP) that contribute to the risk to public health in urban areas under the Integrated Urban Air Toxics Strategy. These three source categories are being combined into one set of standards for the purposes of this rulemaking. Paint stripping operations subject to the standards being proposed include the use of methylene chloride-containing chemicals to remove paint and other coatings. Plastic parts and products surface coating operations include the application of coatings to miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic. Autobody refinishing includes the application of coating to motor vehicles and mobile equipment. These proposed standards, when final, would require all methylene chloride (MeCl) containing paint stripping and miscellaneous surface coating operations at area sources to comply with equipment requirements and/or management practices that minimize specific HAP emissions. The standards would also establish training requirements for persons who spray apply coatings. These standards, when final, would apply to all area sources that perform methylene chloride-containing paint stripping and miscellaneous surface coating activities, except when other NESHAP apply.

DATES: *Comments.* Comments must be received on or before October 17, 2007. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by the Office of Management and Budget (OMB) on or before October 17, 2007.

Public Hearing: If anyone contacts EPA requesting to speak at a public hearing concerning the proposed rule by September 27, 2007, we will hold a public hearing on October 2, 2007.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0526, 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.

Fax: 202–566–1741.

Mail: Air and Radiation Docket, Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies. We request that a separate copy also be sent to the contact person identified below see **FOR FURTHER INFORMATION CONTACT**. 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: Deliver your comments to: EPA Docket Center (EPA/DC), EPA West Building, Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20014. Such deliveries are accepted only during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2005–0526. 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 with a 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.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Do not send proprietary information to the public docket to ensure that it is not inadvertently placed in the docket. Instead, send proprietary information directly to the following address: Attention: Mr. Roberto Morales, U.S. Environmental Protection Agency, OAQPS Document Control Officer, 109 T.W. Alexander Drive, Room C404–02, Research Triangle Park, NC 27711. EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

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/DC, EPA West, Room B102, 1301 Constitution Avenue, 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 for the Air and Radiation Docket is (202) 566–1742.

Public Hearing: If you are interested in attending the public hearing, contact Ms. Dorothy Apple at (919) 541–4487 to verify that a hearing will be held. If a public hearing is held, it will be held at 10 a.m. at EPA's Campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC, or an alternate site nearby.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed standards, contact Mr. Warren Johnson, Office of Air Quality Planning and Standards, Sector Policies and Programs

Division, Natural Resources and Commerce Group (E143–03), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5124, or e-mail at *johnson.warren@epa.gov.* For technical information concerning the proposed surface coating standards, contact Ms. Kim Teal, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5580, or e-mail at *teal.kim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How is this document organized?

The information presented in this preamble is organized as follows:

B. Does this action apply to me?

Categories and entities potentially affected by the proposed rule are MeCl—containing paint stripping operations and miscellaneous surface coating operations located at area sources. An area source is defined in CAA section 112(a) as any stationary source of HAP that is not a major source, and a major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, considering controls, in the aggregate, 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP. For the purposes of this proposal, paint stripping operations are those that involve the use of MeCl for the partial or complete removal of surface coatings from wood, metal or plastic substrates at area sources as either (1) an independent activity where paint stripping is the principle activity at the source or (2) an activity incidental to the principle activity (e.g., surface coating, inspection, maintenance, etc.) at the source. We consider paint stripping activities that use less than 150 gallons per year to be incidental to the principle activity and those using 150 gallons or more to be performing paint stripping as a principle activity. Miscellaneous surface coating operations are those that involve the application of coatings at area sources to (1) miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic; or (2) motor vehicles and mobile equipment (e.g., heavy duty-trucks, buses, construction equipment, self-propelled vehicles and equipment that may be drawn and/or driven on a roadway), hereinafter referred to as autobody refinishing. In general, the facilities and entities potentially affected by the proposed rule are covered under the North American Industrial Classification System (NAICS) Codes listed in the following table. However, facilities classified under other NAICS codes may be subject to the proposed standards if they meet the applicability criteria.

Category	NAICS	Examples of potentially regulated entities
Aerospace Equipment	336413 336414 336415 54171	Aircraft engines, aircraft parts, aerospace ground equipment.

Category	NAICS	Examples of potentially regulated entities
Automobiles and Automobile Parts	335312 336111 336211 336312 33632 33633 33634 33637 336399 441110 441120 811121	Engine parts, vehicle parts and accessories, brakes, axles, etc. Motor vehicle body manufacturing and automobile assembly plants. New and used car dealers. Automotive body, paint, and interior repair and maintenance.
Chemical Manufacturing and Product Preparation	325110 325120 325131 325188 325192 325193 325199 325998	Petrochemicals, Industrial Gases, Inorganic Dyes and Pigments, Basic Inorganic and Organic Chemicals, Cyclic Crude and Intermediates, Ethyl Alcohol, Miscellaneous Chemical Production and Preparation.
Extruded Aluminum	331316 331524 332321 332323	Extruded aluminum, architectural components, coils, rod, and tubes.
Government	N/A	Government entities, besides Department of Defense, that maintain vehicles, such as school buses, police and emergency vehicles, transit buses, or highway maintenance vehicles.
Heavy Equipment	33312 333611 333618	Tractors, earth moving machinery.
Job Shops	332312 332722 332813 332991 332999 334119 336413 339999	Manufacturing industries not elsewhere classified (e.g., bezels, consoles, panels, lenses).
Large Trucks and Buses	33612 336211	Large trucks and buses.
Metal Buildings	332311	Prefabricated metal buildings, carports, docks, dwellings, greenhouses, panels for buildings.
Metal Containers	33242 81131 322214 331513 332439	Drums, kegs, pails, shipping containers.
Metal Pipe and Foundry	331111 331513 33121 331221 331511	Plate, tube, rods, nails, etc.
Rail Transportation	33651 336611 482111	Brakes, engines, freight cars, locomotives.
Recreational Vehicles and Other Transportation Equipment.	321991 3369 331316 336991 336211 336112 336212 336213 336214 336399 336999 33635 56121 8111 56211	Mobile Homes. Motorcycles, motor homes, semi trailers, truck trailers. Miscellaneous transportation related equipment and parts. Travel trailer and camper manufacturing.

Category	NAICS	Examples of potentially regulated entities
Rubber-to-Metal Products	326291 326299	Engine mounts, rubberized tank tread, harmonic balancers.
Structural Steel	332311 332312	Joists, railway bridge sections, highway bridge sections.
Waste Treatment, Disposal, and Materials Recovery	562211 562212 562213 562219 562920	Hazardous Waste Treatment and Disposal, Solid Waste Landfill, Solid Waste Combustors and Incinerators, Other Nonhazardous Waste Treatment and Disposal, Materials Recovery.
Other Industrial and Commercial	211112	Natural Gas Liquid Extraction.
	311942	Spices and Extracts.
	331311	Alumina Refining.
	337214	Office furniture, except wood.
	811420	Reupholstery and Furniture Repair.
	325211	Plastics Material Synthetic Resins, and Nonvulcanizable Elastomers.
	325510	Paint and Coating Manufacturing.
	32614, 32615	Plastic foam products (e.g., pool floats, wrestling mats, life jackets).
	326199	Plastic products not elsewhere classified (e.g., name plates, coin holders, storage boxes, license plate housings, cosmetic caps, cup holders).
	333313	Office machines.
	33422	Radio and television broadcasting and communications equipment (e.g., cellular telephones).
	339111, 339112	Medical equipment and supplies.
	33992	Sporting and athletic goods.
	33995	Signs and advertising specialties.
	336612	Boat building.
	713930	Marinas, including boat repair yards.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the proposed rule. Many types of entities that perform stripping and/or coating that are not listed in this table would be potentially affected by the proposed rule. To determine whether your facility, company, business, organization, etc., is subject to this action, you should examine the applicability criteria in section 63.11170 of the proposed 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.

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

Do not submit information containing CBI 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 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.

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (e.g., subject heading, **Federal Register** proposal publication date and reference page number(s)).

2. Follow directions—EPA may ask you to respond to specific questions.

3. Explain why you agree or disagree; suggest alternatives and provide substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the specified comment period deadline.

II. Background Information for Proposed Area Source Standards

A. What is the regulatory development background for the proposed standards for paint stripping and miscellaneous surface coating operations?

Section 112 of the Clean Air Act (CAA) requires EPA to develop NESHAP for both major and area sources that are listed for regulation under CAA section 112(c). As stated earlier, a major source is defined in CAA section 112(a) as any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, considering controls, in the aggregate, 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP. An area source is any stationary source that is not a major source. Thus, area sources are those sources of HAP that do not emit nor have the potential to emit HAP at or above the 10 or 25 tpy thresholds.

CAA section 112(k)(3)(B) requires EPA to develop a list of at least 30 HAP which, as a result of area source emissions, pose the greatest threat to public health in the largest number of urban areas. We refer to these HAP as the ''urban HAP.'' Section 112(c)(3) of the CAA directs EPA to identify source categories or subcategories of area

sources that represent 90 percent of the emissions of the urban HAP.

On July 19, 1999, EPA published its Integrated Urban Air Toxics Strategy, which included both the list of urban HAP and the initial list of area source categories (64 FR 38706). The initial list of area source categories included ''Paint Stripping Operations''. On June 26, 2002 and November 22, 2002, EPA added ''Autobody Refinishing Paint Shops (67 FR 43112)'' and ''Plastic Parts and Products (Surface Coating) (67 FR 70427)'', respectively, to the list of area source categories. A primary goal of the Integrated Urban Air Toxics Strategy is to achieve a 75 percent reduction in cancer incidence attributable to HAP emitted from stationary sources in urban areas.

Sierra Club sued EPA, alleging a failure to complete standards for the area source categories listed pursuant to CAA section 112(c)(3)and (k)(3)(B) within the timeframe specified by the statute. See *Sierra Club* v. *Johnson,* 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) and (k)(3)(B). Among other things, the order requires that, by December 15, 2007, EPA complete standards for certain area source categories.

In this action, EPA is proposing standards for the following area source categories: Paint stripping, plastic parts and products (surface coating), and autobody refinishing. In developing this proposed rule, we fully analyzed these three listed source categories and found that it is both reasonable and technically feasible to regulate emissions from these three source categories by a single set of emission standards. The processes, emission points, emission characteristics, and emission controls for plastic parts and products surface coating and autobody refinishing are very similar. Additionally, paint stripping is often performed as part of the surface preparation for both plastic parts and autobody refinishing which, by regulating within the scope of a single set of standards, reduces the burden of complying with multiple standards on the sources performing both the paint stripping and subsequent coating. This single set of emission standards that addresses all three categories also minimizes the cost of developing, permitting, and enforcing the standards. For purposes of this preamble and proposed rule, the term ''paint stripping and miscellaneous surface coating'' is used to indicate that the three area source categories of paint stripping, plastic parts and products (surface coating), and autobody refinishing have been treated as a single source category for purposes of developing this rule.

Early in the development of standards to implement EPA's Integrated Urban Strategy, the States expressed concern over the burden and resources that would be required for the States to take delegation for the implementation of the area source rules listed as part of the strategy. Specifically, States were concerned that implementing Federal requirements, in lieu of established State programs, would be overly burdensome with little or no additional emission reductions for certain source categories. In these discussions, the States acknowledged the provisions in CAA section 112(l) as a route for providing them this reduction of burden and flexibility in accepting delegation of some of the area source standards. Guidance on the provisions of CAA section 112(l) are presented in 40 CFR 63 Subpart E which provides certain administrative (i.e., monitoring, recordkeeping, and reporting) criteria for an alternative program to be considered equivalent. This guidance provides States with information regarding the necessary components for their program to be considered equivalent. EPA believes some States may have programs that address the emissions from the surface coating of motor vehicles and mobile equipment that are at least as effective as the proposed standards and encourages States to consider utilizing these provisions in lieu of implementing the proposed standards.

The EPA is seeking comment on (1) whether or not the States are interested in utilizing the Section 112(l) alternative program approach, and (2) what technical assistance the States may need to develop equivalency determinations.

B. Where in the Code of Federal Regulations (CFR) will these standards be codified?

The CFR is a codification of the general and permanent rules published in the **Federal Register** by the Executive departments and agencies of the Federal Government. The code is divided into 50 titles that represent broad areas subject to Federal Regulation. When final, these proposed standards will be published in Title 40, Protection of the Environment, part 63, subpart HHHHHH: National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations.

C. What criteria are used in the development of these NESHAP?

CAA section 112(d)(5) authorizes EPA to issue alternative emission standards for area sources in lieu of the authorities provided in CAA sections 112(d)(2) and 112(f). Specifically, section 112(d)(5), which is entitled ''Alternative Standard for Area Sources,'' provides:

> With respect only to categories and subcategories of area sources listed pursuant to subsection (c) of this section, the Administrator may, in lieu of the authorities provided in paragraph (2) and subsection (f) of this section, elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.

Thus, CAA section 112(d)(5) authorizes EPA to promulgate standards under section 112(d)(5) that provide for the use of generally available control technologies or management practices (GACT), instead of issuing maximum achievable control technology (MACT) standards pursuant to CAA section 112(d)(2) and (d)(3). The statute does not set any condition precedent for issuing standards under CAA section 112(d)(5) other than that the area source category or subcategory at issue must be one that EPA listed pursuant to CAA section 112(c)(3), which is the case in this proposal.

When setting a GACT standard for an area source category as opposed to a MACT standard, EPA must ensure that the GACT standard is consistent with the requirements of CAA section 112(d)(5) and have a reasonable basis for its GACT determination. Thus, in developing standards for area sources of HAP emissions, EPA evaluates the control technologies and management practices that reduce HAP emissions that are generally available for each area source category, and, in determining GACT, may establish standards on either (or both) generally available control technologies or (and) management practices that reduce the emission of HAP. EPA's analysis supporting the proposed GACT requirements is discussed in detail in section IV of this preamble.

D. What are the sources of emissions and the HAP for which these area source categories were listed?

EPA listed the area source paint stripping category pursuant to CAA section 112(c)(3) based on emissions of MeCl contained in paint stripper formulations. The emissions of MeCl comes from evaporative losses during the use or storage of MeCl. EPA listed

the area source miscellaneous coating operations category pursuant to section 112(c)(3) based on emissions of cadmium, chromium, lead compounds (lead), manganese and nickel compounds that are in the coatings, as part of the pigment in topcoats or for the corrosion protection in primers. For purposes of this proposal we will refer to these HAP as the ''target HAP.''

The anticipated national impacts of these proposed standards is summarized in section V of this preamble.

E. What are the health effects associated with the pollutants emitted by paint stripping and miscellaneous surface coating operations?

Emissions data collected in the development of this proposed rule shows that HAP emitted from paint stripping and miscellaneous surface coating operations are associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (e.g., central nervous system effects, blood disorders, cancer) and acute health disorders (e.g., irritation of eyes, nose and throat, with long-term impairment of lung function possible at high acute exposures). The proposed rule protects air quality and promotes the public health by reducing the emissions of the HAP for which the three source categories at issue in this proposed rule were listed.

F. How has EPA regulated major sources in the same industrial sectors (similar sources) and what has EPA learned about available control technologies and management practices from regulating these major sources?

Major sources performing paint stripping and surface coating of miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic; or motor vehicles and mobile equipment (e.g., heavy duty-trucks, buses, construction equipment, self-propelled vehicles and equipment that may be drawn and/or driven on a roadway), were addressed in different surface coating NESHAP requiring MACT level of control, of which the last NESHAP was promulgated in 2004. Major sources must currently be in compliance with those surface coating NESHAP.

Paint stripping was a separately listed major source category under CAA section 112 (c)(1), however, during the data gathering phase EPA determined that there were no major source paint stripping operations conducted independent of surface coating. Therefore, all paint stripping operations were covered in each surface coating NESHAP, as part of the cleaning material used for surface preparation activities. Each NESHAP assumed that the initial emission control technology would be reduction of the usage of HAP cleaners or implementation of management practices to reduce the evaporative losses from these cleaning activities.

The data gathering for the major source categories revealed that when the coatings are spray-applied, it was common practice to perform application of the coatings within the confines of a spray booth to minimize worker exposure. This limited the dispersion of the HAP to the parts being coated as solids in the dry coating film, deposition onto the walls, floor, and grates of the spray booths in which they are applied, or some of the HAP particles would be entrained in the spray booth exhaust air. We have learned, as part of the data gathering phase of this area source proposal that although most, if not all, sources are spray applying these coatings in a spray booth, not all of the spray booths are capable of capturing and controlling the target HAP (the HAP for which the area source categories at issue here were listed pursuant to CAA section 112(c)(3).

III. Proposed NESHAP for Paint Stripping and Miscellaneous Coating Operations at Area Sources

A. What are the affected area sources?

The sources that would be affected by the proposed standards are area sources engaged in paint stripping using MeCl, and/or engaged in coating of miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic, or autobody refinishing. The proposed standards would not apply to any of these operations that are specifically covered under another area source NESHAP (e.g., the NESHAP for Defense Land Systems and Miscellaneous Equipment currently under development). While these sources are not currently listed pursuant to CAA section 112(c)(3) or 112(k)(3)(b), we intend to list them under these provisions of the act.

B. What are the HAP and primary sources of emissions for which these source categories were listed?

Paint Stripping Operations

The primary source of emissions from paint stripping operations and the HAP for which this source category was listed pursuant to CAA section 112(c)(3) (the ''target HAP'') is the MeCl contained in paint stripper formulations. The primary source of the MeCl emissions in this source category comes from evaporative losses during the use or storage of MeCl.

Miscellaneous Coating Operations

The primary sources of emissions from miscellaneous coating operations are the metal pigments that are in the coatings and/or refinish material. The target HAP for which these source categories were listed are the heavy metals including cadmium, chromium, lead, manganese and nickel compounds. The primary source of emissions of these HAP are the spray application of the coatings and curing process.

The heavy metals are contained primarily in the coatings (e.g., primers and the pigments in topcoats) and include compounds of lead (Pb), trivalent chromium (Cr-III), or hexavalent chromium (Cr-VI), plus compounds of other metals that are considered HAP, such as cadmium, manganese, and nickel. The metal HAP compounds are emitted as the coatings are atomized during spray application. A substantial fraction of coating that is atomized does not reach the part and becomes what is termed ''overspray.'' The fraction that becomes overspray depends on many variables, but two of the most important are the type of equipment and the skill of the painter. Some overspray lands on surfaces of the spray booth and the masking paper that is usually placed around the surface being sprayed, but the rest of the overspray is drawn into the spray booth exhaust system. If the spray booth has filters, most of the overspray is captured by the filters; otherwise, it is exhausted to the atmosphere.

After coating application, the spray gun must be cleaned to remove the remaining coating before it cures and to prepare it for the next coating job. Solvents used for equipment cleaning may contain the same HAP as the coatings they remove. Spray guns are usually cleaned in a device, commonly referred to as an enclosed spray gun washer, that consists of a solvent reservoir and a covered enclosure that dispenses solvent for gun cleaning. The enclosure may hold the gun for automated gun cleaning. During gun cleaning, HAP from the cleaning solvent and the coating may be emitted as the cleaning solvent is sprayed through the gun during cleaning from the equipment that stores and dispenses the cleaning solvent while it is opened.

C. Do the proposed standards apply to my source?

The area source requirements specified in the proposed rule would apply to your source if your source (or

facility) is an area source that performs (1) paint stripping using MeCl-containing chemicals or (2) surface coating using spray equipment.

The area source requirements specified in the proposed rule would not apply if your paint stripping or surface coating operations meet any of the following:

- Paint stripping or surface coating performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State), or the National Aeronautics and Space Administration because these activities will be subject to the area source NESHAP for military operations which is in development.
- Paint stripping or surface coating of military munitions manufactured by or for the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State) or equipment directly and exclusively used for the purposes of transporting munitions manufactured by or for the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State) because these activities will be subject to the area source NESHAP for military operations which is in development.

D. What emissions control requirements is EPA proposing?

This section describes the proposed emissions control requirements for paint stripping and miscellaneous coating operations. The basis for these proposed requirements is discussed in section IV, below.

Paint Stripping Operations

All sources conducting paint stripping involving the use of MeCl must implement management practice standards that reduce emissions of MeCl by minimizing evaporative losses of MeCl.

In addition to the management practices, sources that use 150 gal or more of paint stripper containing MeCl, per year would need to develop and implement a MeCl minimization plan consisting of a written plan with the criteria to evaluate the necessity of MeCl in the stripping operations and management techniques to minimize MeCl emissions when it is needed in the paint stripping operation.

The MeCl minimization plan evaluation criteria would involve only using a MeCl-containing paint stripper when an alternative on-site stripping method or material is incapable of accomplishing the work as determined by the operator. Alternative methods to reduce MeCl usage may include: (1) Non-MeCl-containing chemical strippers; (2) mechanical stripping; (3) blasting (including dry or wet media); or (4) thermal and cryogenic decomposition.

The management practices that would be required to be contained in the plan include optimizing stripper application conditions, reducing exposure of stripper to the air, and practicing proper storage and disposal of materials containing MeCl. Sources would be required to submit the plan either to EPA or to the delegated state permit authority, keep a written copy of the plan on site and post a placard or sign outlining the evaluation criteria and management techniques in each area where MeCl-containing paint stripping operations occur.

Miscellaneous Coating Operations

All sources conducting surface coating operations involving spray-applied coatings would need to apply the coatings with a high volume, low pressure (HVLP) spray gun, electrostatic spray gun, or a gun demonstrated to be equal in transfer efficiency to an HVLP spray gun. All spray-applied coatings would need to be applied in a prep station or spray booth, with a full roof and at least three complete walls or complete side curtains, ventilated so that air is drawn into the booth. The exhaust from the prep station or spray booth would need to be fitted with fiberglass or polyester fiber filters or some other filter technology demonstrated to achieve at least 98 percent capture efficiency of paint overspray. As explained further below, we are proposing that the combination of these technologies are GACT for the miscellaneous surface coating operations.

Additionally, sources would be required to comply with the management practices by demonstrating that (1) all painters that spray-apply coatings are certified and (2) that all spray gun cleaning performed by spraying HAP solvent through the gun is performed in an enclosed spray gun cleaner or by cleaning the disassembled gun parts by hand (i.e., spraying HAP solvent through a gun outside of a gun cleaner would be prohibited). The painter would need to be certified as having completed classroom and hands-on training in the proper selection, mixing, and application of coatings. Refresher training would need to be repeated at least once every 5 years. The initial and refresher training would need to address the following topics:

- Surface preparation (prep).
- Spray gun set up and operation and spray technique for different types of coatings to improve transfer efficiency and minimize coating usage and overspray.
- Routine spray booth and filter maintenance.
- Paint mixing, matching, and applying.
- Resolving paint application problems.
- Finish defects causes and cures.
- Safety precautions.
- Environmental compliance.

E. What are the initial compliance requirements?

If your facility is a new source (one that began construction or reconstruction after the date this rule is proposed) and you use MeCl in your paint stripping operations or you spray apply coatings, you would be required to comply with all of the requirements established in this subpart as of the date of promulgation of the final rule or upon startup, whichever is later.

If your facility is an existing source (one that began construction or reconstruction before the date this rule is proposed), you would be required to comply with the requirements no later than 2 years after the date the final rule is published. In addition, each painter would need to comply with the training requirements of the rule no later than 60 days after hiring. Painters would be allowed to use training that was completed within 5 years prior to the date training is required to meet this requirement. All painters would need to receive refresher training and be re-certified every 5 years.

To demonstrate initial compliance for paint stripping operations, you would need to:

- Certify that you have implemented a best management practices plan, and
- If you are a source that uses 150 gal or more of paint stripper containing MeCl, per year, certify that you have developed and implemented a MeCl minimization plan consisting of a written plan with the criteria to evaluate the necessity of MeCl in the stripping operations and management techniques to minimize MeCl emissions when it is needed in the paint stripping operation.

To demonstrate initial compliance for miscellaneous surface coating operations, you would need to:

- Certify that all coatings are sprayed in booths or prep stations that are fitted with filters.
- Certify that all spray guns are HVLP or an equivalent.
- Certify that all painters that apply coatings using a spray gun have completed the training described in section III.D. of this preamble.

• Certify that all gun cleaning is performed in enclosed gun cleaners or by hand.

After the compliance date for your source, you would have 120 days if you are a new source, and 30 days if you are an existing source, to submit a notification of compliance status to the EPA or a delegated State or local air pollution control agency.

You would also be required to submit an initial notification to the EPA or the delegated agency that you are subject to the standard. You would have 120 days after startup or publication of the final rule (whichever is later) to submit the initial notification if you are a new source. If you are an existing source, you would have 1 year after publication of the final rule to submit the initial notification.

If your facility is an existing source, you would be required to comply with the requirements no later than 2 years after the date the final rule is published. In addition, each painter would need to comply with the training requirements of the rule no later than 60 days after hiring. Painters would be allowed to use training that was completed within 5 years prior to the date training is required to meet this requirement. All painters would need to receive refresher training and be re-certified every 5 years.

F. What are the continuous compliance requirements?

To demonstrate continuous compliance, you would need to continually maintain the emission control requirements (i.e., management practices and equipment requirements) that are described in section III.D. of this preamble.

G. What are the notification, recordkeeping, and reporting requirements?

You would be required to submit an initial notification to the EPA or the delegated agency that you are subject to the standard. If you are a new source, you would have 120 days after startup or publication of the final rule (whichever is later) to submit the initial notification. If you are an existing source, you would have 1 year after publication of the final rule to submit the initial notification.

After the compliance date for your source, you would have 120 days if you are a new source and 30 days if you are an existing source to submit a notification of compliance status to the EPA or a delegated State or local air pollution control agency.

Paint Stripping Operations

For paint stripping operations, you would need to maintain records demonstrating the following:

• Annual usage of MeCl in paint strippers is below 150 gallons (if you are a source qualifying for the best management practices, only); or

• You have complied with the MeCl minimization plan.

If you are required to have a MeCl minimization plan, you would also be required to submit annual compliance reports in which you certify that the source is in compliance, or report the date, duration, and description of any deviations from the MeCl minimization plan that occurred and the corrective actions taken.

Miscellaneous Coating Operations

For miscellaneous coating operations, you would need to maintain records demonstrating the following:

• All spray painters are trained and certified;

• Any spray booth filters or particulate controls that are not fiberglass or polyester fiber filters achieve at least 98 percent efficiency; and

• Any spray guns that do not meet the definition of HVLP or electrostatic spray gun have been demonstrated to achieve comparable transfer efficiency.

• Spray gun cleaning is being performed manually or in an enclosed gun cleaner when solvent is being atomized through the gun as part of the cleaning process.

You would also be required to submit annual compliance reports in which you certify that the source is in compliance, or report the date, duration, and description of any deviations from the specified control requirements that occurred and the corrective actions taken.

IV. Rationale for Selecting the Proposed Standards

A. What area source categories are affected by this proposal?

As discussed above, this rulemaking covers facilities engaged in MeCl paint stripping and spray applied surface coating of parts and/or products made of metal or plastic, or combinations of metal and plastic; and refinishing of motor vehicles and mobile equipment which are a source of emissions of MeCl, cadmium, chromium, lead, manganese and nickel compounds which are the target HAP described above.

B. How did we select the affected source?

In selecting the affected source for emission standards, our primary goal is to ensure that all emission points responsible for the emissions of the target HAP (i.e., MeCl & the heavy metals) in each listed source category are controlled as specified in CAA section 112(d)(5), described previously in Section II.C. The affected source also serves to establish when new source standards should be applied. Specifically, the General Provisions in subpart A of 40 CFR part 63 define the terms ''construction'' and ''reconstruction'' with reference to the term ''affected source'' (40 CFR part 63.2) and provide that new source standards apply when construction or reconstruction of an affected source occurs.

The affected source for this proposed rule is broadly defined to include all operations associated with the removal of paint from a substrate using MeCl and the spray application of coatings. These operations include the use of MeCl-containing paint strippers by immersion, brushing on, and/or spraying on to remove a coating to change the color of the item or because the life of the coating has been exceeded, or to remove paint for inspection purposes or during repair; storage and mixing of coatings and other materials; surface preparation; coating application and flash-off; drying and curing of applied coatings; cleaning operations; and waste handling operations.

Each of the equipment items subject to regulation (e.g., containers of paint or stripper, spray booths, spray guns, gun cleaners) is either a relatively low cost item, or could be easily moved about inside a paint stripping and miscellaneous surface coating operation, hence, for this proposal, a broad definition of affected source that encompasses the entire paint stripping and miscellaneous surface coating operation was selected. This approach would subject the entire operation to the same compliance date. Had we proposed a narrow definition for an affected source, replacement or purchase of a single item could cause that item to be considered a new source, resulting in different compliance dates and additional reporting. Furthermore, for the most part, new and existing affected sources are subject to the same emission standards, so the same environmental benefit will be realized regardless of whether the source is considered new or existing. Defining the affected source narrowly could result in

a paint stripping or miscellaneous surface coating operation having several affected sources that could be subject to different compliance dates, but the same standards, imposing additional burdens on the source without any environmental benefit.

C. How did we determine the basis and level of the proposed standards for new and existing sources?

As previously stated above, CAA section 112(d)(5) authorizes EPA to establish emission standards for area sources that provide for the use of generally available control technologies or management practices that reduce emissions of HAP (GACT). 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.

We began the rule development process by identifying other standards developed for these specific processes. As discussed in section II.E., above, we evaluated the emission control technology at major sources for the types of operations found in these area source categories to determine whether or not they were reasonable, feasible, and cost-effective for the area sources. Based on the findings of the major source NESHAP data gathering, the technology considered to be appropriate for the target HAP, and the availability of the technology, we considered whether or not these same emission controls were technically feasible and generally available for the area source categories.

Next, we met with industry associations and discussed their current processes and the feasibility of adopting the emission control technology specified as appropriate for the major sources. We learned that, in fact, similar technology (i.e., spray booths, painter training, HVLP guns, enclosed gun cleaners, and management practices to reduce HAP usage) were already being employed at many of the area sources. Therefore, it was determined that, given the availability and cost-effectiveness of these emission control technologies, they represent GACT for the targeted HAP from each source category (i.e., paint stripping, autobody refinishing, and plastic parts surface coating). As previously stated, the target HAP emissions for which these source categories were listed are MeCl from paint stripping operations and cadmium, chromium, lead, manganese and nickel compounds from the coatings operations. The resulting proposed GACT standards are a combination of technology and management practices that control the target HAP, and have a co-benefit of reducing other associated emissions [1] from these operations. The co-benefit is realized due to the fact that the same technology applied to control the target HAP emissions are also the best techniques for reducing some other emissions associated with these operations.

In the development of these proposed emission standards, EPA visited numerous paint stripping and coating operations, collected data from various databases, and compiled information received during previous data collection activities. We also met with facility owners and other representatives of these industries. These site visits, data review and contacts with industry provided the technical basis for the proposed standards and are included in the public docket for this rulemaking.

Paint Stripping

MeCl is the most common solvent and the target HAP for this source category. Since MeCl is the target HAP, our analysis in determining GACT began with understanding alternative stripping technologies and best management practices to minimize MeCl emissions at existing major and area sources. In selecting GACT for affected area sources that perform paint stripping operations, we determined that best management practices to minimize evaporative losses (fugitive emissions) from MeCl in paint stripper formulations was not only a practice that many in the industry use, but also was generally cost effective for all sources in this category.

As part of the GACT analysis, we considered whether there were differences in processes, sizes, or other factors affecting emissions, control technologies or management practices that would warrant subcategorization. Under CAA section 112(d)(1) of the CAA, EPA ''may distinguish among classes, types, and sizes within a source category or subcategory in establishing such standard.'' In looking to other means by which MeCl emissions could be reduced from these operations, we did recognize that some sources utilized alternative stripping technologies (e.g., blasting) to accomplish much of their work. These sources, distinguishable from the rest of the category by having other available on site methods to strip paint not involving MeCl, could reasonably route work away from paint stripping operations that involved MeCl as a means of control. Pursuant to section 112(d)(1), we have subcategorized these sources with alternative stripping methods by class. As mentioned earlier, these different paint stripping methods include (1) non-MeCl—containing chemical strippers; (2) mechanical stripping; (3) blasting (including dry or wet media); and (4) thermal or cryogenic decomposition. We also recognized that this subcategory represented the 30 percent (approximately) of the source category with the highest MeCl emissions. We determined that sources that used 150 gallons or more per year of paint stripper containing MeCl was the best approximation criteria for defining this subcategory for three reasons.

First, based on our findings from: (1) A study of paint stripping facilities (referenced in a Metropolitan Water District of Southern California (Environmental Defense Fund) document entitled ''Source Reduction and Recycling of Halogenated Solvents in Paint Stripping—Technical Support Document''), (2) our understanding of the affected facilities, and (3) our analysis of the model plants, for facilities using 150 gallons of MeCl or more per year, we believe it is reasonable to expect cost savings from the process of routing work away from paint stripping operations involving MeCl to other means of stripping. The study of paint stripping facilities highlighted to us that a good portion of paint stripping at these facilities (as high as 90 percent at one facility) was not really necessary. In being conservative, we believe that 5 percent of paint stripping is not necessary. An example of paint stripping that may be found as not necessary includes the

[1] The baseline emissions from the surface coating operations are estimated to be about 38,000 tpy of HAP, including 12.4 tpy of inorganic HAP (e.g.; Pb and Cr-VI compounds), 123,500 tpy of criteria pollutants including 3,100 tpy of particulate matter (PM) from paint overspray and 120,400 tpy of volatile organic compounds (VOC) from coating and solvent evaporation.

refinishing of personal oxygen gas cylinder surfaces (that often automatically get stripped of paint for cosmetic purposes during recycling) when they actually need no refinishing for serviceability. In addition, we believe that there is a slight cost savings associated with routing work away from paint stripping involving MeCl to a media blasting technique, when the media involved is recycled. Second, our analysis of model plants suggested that most facilities using 150 gallons of MeCl or more per year had other methods of stripping available on site (e.g., blasting or thermal) to which work could be easily routed. Finally, we recognized that the 150 gallon threshold reasonably coincides with exposure levels at which Occupational Safety and Health Administration (OSHA) requirements (29 CFR 1910.123–1910.126) are to be implemented. OSHA provided specific dip tank size criteria to characterize which size tanks must follow specific worker safety requirements. We calculated, based on the sizes provided by OSHA, the volume of stripper that the minimum tank would hold and used this volume for our size criteria. For these reasons we are proposing that facilities using 150 gallons of MeCl or more per year must, in addition to the best management practices to minimize evaporative losses, develop and implement the MeCl minimization plan mentioned earlier.

We recognize that given the wide range of paint stripping operations and techniques, there is no single substitute that could completely eliminate the need for MeCl–containing paint strippers, particularly on confined and hard to reach surfaces where other methods tend not to remove paint as well. We do, however, believe that given the existing management practices currently exercised by much of this industry, it is not unreasonable to incorporate management practices that minimize or eliminate MeCl emissions from many of the applications where MeCl–containing paint strippers are used. Therefore, we are proposing standards that require operators to employ management practices to reduce the emissions of MeCl through alternative paint stripping techniques when possible, and, for sources that use 150 gallons of MeCl or more per year to develop and implement a minimization plan to reduce MeCl-containing paint stripper use when it is not needed.

Miscellaneous Surface Coating

The emissions from these operations come primarily from the spray application of coatings. Although most of the HAP are deposited as part of the paint film, some of the HAP becomes airborne in the paint overspray. The volume of coating deposited as part of the paint film as a fraction of the volume of paint sprayed is referred to as the transfer efficiency (i.e., 60 percent of the coating sprayed is deposited as paint film then the transfer efficiency is 60 percent).

Our analysis of operations that involve the spray application of coatings has determined that GACT for these coating operations is a combination of: (1) Confining all spray coating operations to a spray booth or equivalent ventilated and filtered enclosure, (2) using only spray equipment that is designed to achieve a high rate of transfer efficiency (HVLP or equivalent spray technology), and (3) having the spray equipment operator trained and certified in the techniques needed to properly set up and operate high transfer efficiency spray equipment in order to optimize the transfer efficiency.

Based on the site visits, data review, and contacts with industry, for which documentation is provided in the public docket for this rulemaking, we have determined that the standard practice among the majority of facilities in the miscellaneous surface coating industry is to perform nearly all spray painting inside a spray booth or ventilated prep station enclosed by curtains. The only exceptions are priming small areas, or performing spot repairs with an air brush. At many facilities, all spray painting is performed in a spray booth or ventilated prep station to reduce contaminants that would compromise the final finish and to maintain a clean work area. In addition, it is standard practice to filter the exhaust from the booth or prep station to capture paint overspray so that it is not deposited on ventilation equipment or surrounding property. Therefore, based on the availability and cost-effectiveness, we have determined that a filtered spray booth or prep station is GACT for all miscellaneous surface coating operations to control HAP emissions. The proposed standards would require all spray painting that is not done with an airbrush or hand-held non-refillable aerosol cans to be done in a filtered spray booth or prep station. We also conclude that the above proposed control requirements can be achieved without additional burden to affected sources because filtered spray booths or prep stations are already required in order to comply with OSHA standards for spray finishing operations (29 CFR 1910.94(c)).

At the majority of facilities that were visited, the spray booths were fitted with either fiberglass or polyester fiber filters on the spray booth and prep station exhaust. One facility had a water-wash spray booth filter and another had expanded polystyrene foam baffle filters. An EPA study entitled ''Comparative Study of Spray Booth Filter System Efficiency'', which is provided in the public docket for this rulemaking, determined that fiberglass and polyester fiber filters had superior performance, relative to other filter types, such as polystyrene foam and cardboard baffle filters, in controlling the heavy metals found in paint overspray and which are the target HAP for these source categories. Therefore, based on our findings during the site visits, information provided by the industry on the most commonly used filters, and the EPA study on filter effectiveness and the cost-effectiveness we have determined that these fiberglass and polyester fiber filters represent GACT for controlling the heavy metals present in paint overspray.

The proposed rule would allow for the use of other types of paint overspray filters, but they would be required to achieve 98-percent filter efficiency. This alternative was included since the EPA did not test all types of filters used in spray booths; therefore the market may already provide for filters that are as equally efficient which were not available or not tested in the EPA study, but nevertheless representative of GACT. The EPA study on filter effectiveness and filter efficiency data provided by filter vendors formed the basis for the 98-percent filter efficiency The limit represents a performance level that separates the fiberglass and polyester fiber filters from baffle type filters. The baffle type filters were shown in the EPA study to have poor performance in controlling fine particulate that can contain heavy metals.

The proposed standards would not prohibit the use of coatings that contain the heavy metals or target HAP for these source categories. Although California has prohibited the use of automotive refinish coatings that contain Cr–VI and cadmium (Cd), a nationwide prohibition would impose unreasonable burden on the industry, and could force facilities out of business due to a lack of alternative materials that could address the performance criteria (e.g., corrosion protection) that may be used in all environments across the United States. The proposed standards would specifically require spray equipment that is designed to achieve a high rate of transfer efficiency (HVLP or equivalent spray technology) in order to reduce the overall amount of coating

required to complete each coating job. Reducing the amount of coating required for each job directly correlates to significant reductions in the overall emissions from these coating operations. Conventional high-pressure air-atomized spray guns have a typical transfer efficiency of about 30 percent. That means that for every gallon of coating sprayed, only 0.30 gallon reaches the part being coated. The remaining 0.70 gallon misses the part and either lands on the booth walls and floor or is pulled into the spray booth filters and exhaust system. To get one gallon on the part, a conventional spray gun needs to use 3⅓ gallons of coating. HVLP and other types of high-efficiency spray guns use lower air pressures and achieve transfer efficiencies of about 50 percent, or greater, with appropriate operator training. To get one gallon on the part, a high efficiency spray gun needs to use only 2 gallons of coating. This increased transfer efficiency represents a 40 percent decrease in coating consumption and in resultant emissions compared to conventional spray guns. For these reasons, many surface coating operations have already switched to HVLP and other types of high efficiency spray guns.

All of the autobody refinishing facilities visited by EPA and about 80 percent of the other miscellaneous surface coating facilities for which EPA has data used HVLP or equivalent spray guns for coating application. About half these sources were not required to do so by regulations and have switched in order to reduce coating costs through reduced consumption. Regulations for autobody refinishing in 10 States require the use of HVLP spray guns or their equivalent statewide, and they are required in ozone non-attainment areas in 12 States without a statewide requirement. Given the cost-effectiveness and the use of HVLP or equivalent spray guns has been adopted at the facilities visited by EPA and is required in many States and ozone non-attainment areas, we have determined that these types of spray guns are GACT for spray-applied coatings.

The purpose of requiring the spray equipment operator to be trained and certified is to ensure that the operator is skilled in the techniques needed to achieve a high rate of transfer efficiency. We have concluded, based on the findings of the Spray Technique Analysis and Research (STAR®) program study presented in the following paragraph, and included in the public docket for this rulemaking, that even when spray operations are confined within a spray booth and appropriate spray technology is used, they are not as effective if the painter is not properly trained. We therefore have determined that GACT requires implementation of the above requirements by a trained painter.

The training would include measures intended to increase transfer efficiency and reduce overspray and coating usage. Most, if not all of the measures are currently offered in training provided by coating manufacturers on an annual basis. In addition to manufacturer-sponsored training, the STAR® program, which originated at the University of Northern Iowa Waste Reduction Center, has now been adopted at 37 locations (primarily community colleges) throughout the United States. Coating manufacturers currently provide this training to their clients as part of the service benefits of contracting with them and as a component in the warranty agreement. Data from the STAR® program demonstrate that spray operator training can increase transfer efficiency for those using high efficiency spray equipment from an average of about 50 percent to 60 percent, or more, representing a 20 percent reduction in coating usage compared to untrained operators. This 20 percent reduction in coating usage would translate into a 20 percent reduction in emissions of organic HAP that are contained in those coatings. It would also reduce emissions of the heavy metals that are in the coatings.

It is important to note that these ''untrained'' operators are not inexperienced painters. They often have many years of experience before they enter these training programs. However, they have not been specifically trained in how to best set up and operate high efficiency spray equipment and to optimize their technique to maximize transfer efficiency and minimize coating consumption.

About 3,500 painters have already completed STAR® training and at least one company operating multiple collision repair shops has established a STAR®–based in-house training program. Since many painters already attend regular training sponsored by coating companies and trade organizations, we determined that the specified painter training, or a comparable training program, is GACT for these source categories.

Our analysis has determined that the proper training and certification for spray coating operators should be comparable to existing programs such as those offered by The Inter-Industry Conference on Auto Collision Repair (I–CAR) and the STAR®-based programs offered in various states. The essential elements of training and certification, for the purposes of achieving compliance with the requirements of the proposed standard, should at a minimum, train, examine and certify each spray equipment operator in the proper techniques in: (1) Coating material handling, including spills and clean up, (2) substrate preparations that minimize over spray, (3) proper equipment selection and set-up to optimize transfer efficiency, (4) coating application and spray technique that minimizes over spray, (5) spray equipment cleaning and maintenance, and (6) operating and maintaining a spray booth.

However, EPA does not believe that I–CAR and STAR® are the only programs that contain these essential elements for operator instruction and certification in the skills needed to achieve a high rate of transfer efficiency with proper equipment. The proposed rule does not limit training and certification to only these two programs, since the critical elements are the training components. We are open to and request comment regarding viable training and certification alternatives that are available to spray coating operators that should be considered that would achieve the same or comparable results. These alternatives could include, but not be limited to, state, community college, or industry sponsored training and certification programs, either on the job or through classroom, hands-on, or on-line instruction.

The proposed rule would require that all spray gun cleaning be done in enclosed spray gun cleaners, or the disassembled spray gun could be cleaned by hand without the benefit of atomization. Spraying of cleaning solvent through spray guns outside of an enclosed gun washer would be prohibited. All of the facilities visited by EPA had enclosed gun washers and other contacts with industry members indicate that this is standard practice among well-controlled facilities. Therefore, we have determined that an enclosed spray gun cleaner or hand cleaning is GACT for these source categories to reduce emissions from spray gun cleaning. We believe the measures in the proposed rule would effectively control emissions of the target HAP for these sources categories.

D. How did we select the format of the proposed standards?

The proposed standards are in the form of management practice standards and equipment standards. These include reducing the need for MeCl-containing paint strippers, painter training and the use of filtered booths or prep stations, HVLP spray guns, and

enclosed spray gun cleaners. This format was selected since these standards are the most universally applicable and effective for these source categories, they reflect the types of controls that are already in place at well-controlled facilities, and they would have the minimum burden for monitoring, recordkeeping, and reporting compared to other formats. Facilities applying coatings can use filters other than the specified types if the filters are demonstrated to achieve 98 percent filter efficiency. They may also use spray guns other than HVLP spray guns if the manufacturer has demonstrated to the EPA that they are equivalent in transfer efficiency.

The proposed standards do not include numerical emission limits. After considerable review of industry-supplied data for paint stripping and coatings, and consultation with the industry, we have determined that numerical emission limits are not feasible given the variability in the operational parameters (e.g., substrate (i.e., metal, plastic or wood), performance specifications, production rate, etc.) and the variety of work being performed, as many of the sources in these source categories are job shops. Given this variability for these sources EPA believes it is important to provide the greatest flexibility for these sources without compromising emission reductions.

E. How did we select the initial compliance and testing requirements?

The proposed rule includes the minimum requirements needed to demonstrate initial compliance. You would demonstrate initial compliance by implementing all of the requirements in the proposed rule by the dates specified in the rule, and certifying in the initial compliance notification that your source is in compliance.

This proposed rule is comprised of management practices and equipment requirements, of which sources have the option of substituting the specified equipment with alternative equipment that would achieve equivalent or better emissions reductions than that specified, provided they obtain approval from the Administrator as required in section 63.11173(e) of the proposed rule. However, test methods are needed in order to demonstrate equivalent performance of alternative equipment. For this reason, the proposed rule includes separate testing methods that would need to be followed to measure paint overspray filter efficiency when a source does not use fiberglass or polyester fiber filters, and to demonstrate that a paint spray gun is equivalent to an HVLP spray gun in transfer efficiency. The proposed methods represent those methods that are already in use to measure filter efficiency and equivalency to HVLP spray guns based on transfer efficiency. It is expected that the filter or spray gun supplier would complete these measurements and provide copies of the results to the purchaser so they could document compliance. We do not expect the owner of the surface coating operation to perform the measurements.

F. How did we select the continuous compliance requirements?

The proposed rule includes the minimum requirements needed to demonstrate continuous compliance. You would demonstrate continuous compliance by ensuring that you follow the prescribed best management practices for paint stripping operations. Further, if you use more than 150 gal per year of paint stripper containing MeCl, you must demonstrate compliance by implementing and following your MeCl Minimization Plan. For surface coating operations you would ensure that all painters maintain their training and certification, all spray-applied coating is done in a filtered spray booth or prep station, the filters are of the proper type or efficiency, all spray guns are HVLP or equivalent, and all gun cleaning is done in an enclosed spray gun cleaner or by hand. You would also need to maintain records that all painters are trained and certified, and that filters and spray guns meet the specifications for filter efficiency and transfer efficiency, respectively, if needed.

G. How did we select the compliance date?

You would be allowed 2 years to comply with the proposed standards if your operation is an existing source. We believe that 2 years is needed to allow adequate time for existing sources to ensure that all additional equipment, if needed, is purchased and installed and to provide sufficient time for painters employed by the 36,000 sources to receive the training that would be required by the proposed rule.

H. How did we decide to exempt these area source categories from the CAA title V permit requirements?

Section 502(a) of the CAA provides that the Administrator may exempt an area source category from title V if he determines that compliance with title V requirements is ''impracticable, infeasible, or unnecessarily burdensome'' on an area source category. See CAA section 502(a). In December 2005, EPA interpreted the term ''unnecessarily burdensome'' in CAA section 502 and developed a four-factor balancing test for determining whether title V is unnecessarily burdensome for a particular area source category, such that an exemption from title V is appropriate. See 70 FR 75320, December 19, 2005 (''Exemption Rule'').

The four factors that EPA identified in the Exemption Rule for determining whether title V is ''unnecessarily burdensome'' on a particular area source category include: (1) Whether title V would result in significant improvements to the compliance requirements, including monitoring, recordkeeping, and reporting, that are proposed for an area source category (see 70 FR 75323); (2) whether title V permitting would impose significant burdens on the area source category and whether the burdens would be aggravated by any difficulty the sources may have in obtaining assistance from permitting agencies (see 70 FR 75324); (3) whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources (see 70 FR 75325); and (4) whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP for the area source category, without relying on title V permits (see 70 FR 75326).

In discussing the above factors in the Exemption Rule, we explained that we considered on ''a case-by-case basis the extent to which one or more of the four factors supported title V exemptions for a given source category, and then we assessed whether considered together those factors demonstrated that compliance with title V requirements would be 'unnecessarily burdensome' on the category, consistent with section 502(a) of the Act.'' See 70 FR 75323. Thus, in the Exemption Rule, we explained that not all of the four factors must weigh in favor of exemption for EPA to determine that title V is unnecessarily burdensome for a particular area source category. Instead, the factors are to be considered in combination and EPA determines whether the factors, taken together, support an exemption from title V for a particular source category.

In the Exemption Rule, in addition to determining whether compliance with title V requirements would be unnecessarily burdensome on an area source category, we considered, consistent with the guidance provided by the legislative history of section 502(a), whether exempting the area

source category would adversely affect public health, welfare or the environment. See 70 FR 15254–15255, March 25, 2005. As discussed below, we have determined that the exemptions from title V would not adversely affect public health, welfare and the environment.

In considering the exemption from title V requirements for sources in the categories affected by this proposed rule, we first compared the title V monitoring, recordkeeping, and reporting requirements (factor one) to the requirements in this proposal and determined that the management practices currently used at most facilities is GACT and the rule requires recordkeeping that serves as monitoring and deviation reporting to ensure compliance. Because the proposal would require management practices for certain processes and requires recordkeeping designed to serve as monitoring and that recordkeeping assures compliance with the requirements of the proposed rule, additional monitoring requirements that might be added under title V would be unnecessary to assure compliance. Monitoring other than recordkeeping is not practical or appropriate in either case because the requirements are management practices. Records are required to ensure that the management practices are followed, including such records as the amount of MeCl use in paint stripping or the training certification for spray gun operators.

As part of the first factor, we also considered the extent to which title V could potentially enhance compliance for area sources covered by this proposed rule through recordkeeping or reporting requirements. For any affected area source facility, the proposed rule would require an initial notification, a compliance status report, and report of deviations. We considered the various title V recordkeeping and reporting requirements, including requirements for a 6-month monitoring report, deviation reports, and an annual certification in 40 CFR 70.6 and 71.6.

The proposed rule would also require affected facilities to certify compliance with the management practices identified as GACT. In addition, facilities must maintain records showing compliance with the required management practices and deviations. The information required in the deviation reports and records is similar to the information that must be provided in the deviation reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3). We acknowledge that title V might impose additional compliance requirements on this category, but, we conclude that the monitoring, recordkeeping and reporting requirements of this proposed rule are sufficient to ensure compliance with the proposed standards, and title V would not significantly improve those compliance requirements.

Under the second factor, we determine whether title V permitting would impose a significant burden on the area sources in these categories and whether that burden would be aggravated by any difficulty the source may have in obtaining assistance from the permitting agency. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. The EPA estimated that the average cost of obtaining and complying with a title V permit was $38,500 per source for a 5-year permit period, including fees. See Information Collection Request for Part 70 Operating Permit Regulations, January 2000, EPA ICR Number 1587.05. While EPA does not have specific information for the burdens and costs of permitting for either paint stripping or miscellaneous surface coating area sources; there are inherent activities associated with the part 70 and 71 rules that are mandatory and impose burdens on every affected source. These activities include: Reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the State, which may include a combination of written, verbal, and other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In addition, although not required by the permit rules, many sources obtain the contractual services of professional scientists and engineers (consultants) to help them understand and meet the permitting program's requirements. The ICR for part 70 provides additional information on the overall burdens and costs, as well as the relative burdens of each activity described here. For a more comprehensive list of requirements imposed on part 70 sources (and hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In assessing the second factor for facilities affected by this proposal, we found that nearly all of approximately 3,000 paint stripping and 36,000 miscellaneous surface coating facilities are small businesses, some having as few as one or two employees. These small sources lack the technical resources needed to independently comply with permitting requirements and the financial resources needed to hire the necessary staff or outside consultants. Given that title V permitting would impose significant economic and non-economic costs on nearly all of these area sources, we conclude that title V is a significant burden for sources in these categories. Furthermore, given the large number of sources in these categories and relative small facility size, it would likely be difficult for each to obtain independent assistance from their respective permitting authorities. We, thus, conclude that factor two strongly supports title V exemptions for facilities in these area source categories.

The third factor, which is closely related to the second factor, 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. We explained under the second factor (above) that the economic and non-economic costs of compliance with title V would impose a significant burden on nearly all of the approximately 3,000 paint stripping and 36,000 miscellaneous surface coating facilities. We also concluded in considering the first factor that, while title V might impose additional requirements, that the monitoring, recordkeeping and reporting requirements in the NESHAP assure compliance with the management practices imposed in the NESHAP. In addition, below in our consideration of the fourth factor we find that there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Because the costs, both economic and non-economic, of compliance with title V are high, and the potential for gains in compliance are low, title V permitting is not justified for this source category. Accordingly, the third factor supports title V exemptions for these area source categories.

Finally, in determining if title V requirements were unnecessarily burdensome, we considered whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the

NESHAP without relying on title V permits (factor four). In doing so, we considered whether there are sufficient State programs in place to enforce these proposed area source standards, and we believe that there are sufficient State programs to assure compliance with these proposed area source standards. In addition, we recognize that EPA retains authority to enforce these NESHAP anytime under CAA sections 112, 113 and 114. We concluded that title V permitting is ''unnecessary'' to assure compliance with these proposed standards because the statutory requirements for implementation and enforcement of these proposed standards by the delegated States and EPA are sufficient to assure compliance, in all parts of the United States, without title V permits. States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. We determined that these additional programs will supplement and enhance the success of compliance with these proposed standards and conclude that, in light of all of the above, there are implementation and enforcement programs in place that are sufficient to assure compliance with these proposed standards without relying on title V permitting.

In applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data available to demonstrate that States were not only enforcing the provisions of the area source standards that we exempted, but that the States were also providing compliance assistance to ensure that the area sources were in the best position to comply with the standards. See 70 FR 75325–75326. In proposing this rule, we did not have similar data available on the specific enforcement as in the Exemption rule, but we have no reason to think that States will be less diligent in enforcing these proposed standards. See 70 FR 75326. In fact, States must have adequate programs to enforce the HAP regulations and provide assurances that it will enforce all NESHAP, including area source standards, before EPA will delegate the program. See 40 CFR part 63, subpart E.

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 proposed standards without relying on title V permitting.

Balancing the four factors for these area source categories strongly supports that title V is unnecessarily burdensome. While title V might add additional compliance requirements if imposed, we concluded that there would not be significant improvements to the compliance requirements in this proposed rule, because the proposed rule requirements are specifically designed to assure compliance with the management and equipment practices imposed on these area source categories. We also concluded that the economic and non-economic costs of compliance with title V, in conjunction with the likely difficulty this large number of small sources would have obtaining assistance from the permitting authority, would impose a significant burden on these area sources. We determined that the high relative costs would not be justified given that there was likely to be little or no potential gain in compliance likely to occur if title V were required, and that there are adequate implementation and enforcement programs in place to assure compliance with these proposed standards. Thus, we conclude that title V permitting would be ''unnecessarily burdensome'' for these area source categories.

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. The title V permit program does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for these categories, title V would not lead to significant improvements in the compliance requirements applicable to existing or new area sources.

Furthermore, 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 these cases, however, placing all requirements for the source in a title V permit would do little to clarify the requirements applicable to each source or assist it in compliance with the proposed rule requirements, because of the simplicity of the source and the proposed standards, and the likelihood that these sources are not subject to other regulatory requirements under the CAA. We have no reason to think that new sources would be substantially different from the existing sources in these categories. In addition, we explained in the Exemption Rule that requiring permits for the large number of area sources could, at least in the first few years of implementation, potentially adversely affect public health, welfare, or the environment by shifting State agency resources away from assuring compliance for major sources with existing permits to issuing new permits for these area sources, potentially reducing overall air program effectiveness. For this proposed rule, we conclude that title V exemptions for these area sources will not adversely affect public health, welfare, or the environment for all of the reasons explained above.

For the foregoing reasons, we are proposing to exempt these source categories from title V permitting requirements.

V. Impacts of the Proposed Standards

The EPA estimates that about 39,000 establishments perform paint stripping and miscellaneous surface coating operations. We estimate that about 3,000 of these establishments are paint stripping facilities and 36,000 establishments are surface coating operations. The majority of these surface coating establishments (about 35,000) are involved in motor vehicle and mobile equipment refinishing, and employ about 263,000 people, of which about one-third are painters.

A. What are the air impacts?

Paint Stripping Operations

The baseline MeCl emissions from paint stripping operations are estimated to be 3,800 tpy. Around 500 tpy is estimated to be emitted from the approximately 2,000 facilities that use less than 150 gal of paint stripper containing MeCl, per year (which approximately equals MeCl emissions of 1,000 pounds per year based on typical stripper formulations). The remaining 3,300 tpy is estimated to be emitted by the approximately 1,000 paint strippers that use more than 150 gallons of MeCl stripper and who would be required to develop a MeCl minimization plan.

Miscellaneous Coating Operations

The baseline emissions from the surface coating operations are estimated to be about 38,000 tpy of HAP, including 12.4 tpy of inorganic HAP (*e.g.* Pb and Cr-VI compounds). In addition to the HAP, baseline emissions of criteria pollutants are estimated to be 3,100 tpy of particulate matter (PM) from paint overspray and 120,400 tpy of volatile organic compounds (VOC) from coating and solvent evaporation.

Implementation of the proposed standards would achieve a reduction of 6,900 tpy of HAP from surface coating operations, including about 11.4 tpy of inorganic HAP. In addition to the HAP, we estimate PM reductions of about 2,900 tpy and VOC reductions of about 20,900 tpy. These reductions would occur as a result of reduced use of HAP-containing solvents and coatings, increased use of filtered spray booths to capture overspray, increased spray painter training and use of HVLP or equivalent guns to improve transfer efficiency and to reduce coating overspray and paint consumption, and increased use of enclosed spray gun washers. Additional detail on these calculations are included in the public docket for this rulemaking.

B. What are the cost impacts?

Paint Stripping Operations

We estimate that the proposed standards for paint stripping operations will result in an initial cost of around $1,500,000 and a net savings in annual costs. This includes an estimated initial cost of $490,000 and annual costs of $80,000 for the nearly 2,000 paint strippers whose annual usage of paint stripper containing MeCl is below 150 gallons. Initial costs for the approximately 1,000 paint strippers who use more than 150 gallons per year, who would be required to develop MeCl minimization plans are estimated to be just over $1 million. The annual costs for those plants are estimated to be a net savings of $920,000.

For the nearly 2,000 paint strippers whose annual usage of MeCl in paint strippers is below 1,000 lb, or whose annual usage of paint stripper containing MeCl is below 150 gallons, evaluation of improved methods to reduce the emissions of MeCl from evaporative losses comprise most of the costs.

The costs for the approximately 1,000 paint strippers who are required to develop MeCl minimization plans are attributable to the development and implementation of the MeCl minimization plan. Annual costs will include an estimated $400,000 for the development and implementation of the MeCl minimization plan and reporting requirements and an estimated $450,000 associated with switching paint stripping technologies. Annual savings resulting from the implementation of the MeCl minimization plan include an estimated $420,000 from the elimination of unnecessary stripping operations and $1,320,000 in management practice savings from the reduced use of MeCl-containing strippers. For reasons set out earlier in this preamble, we believe that 5 percent of paint stripping in the private sector is not necessary and specifically request comment as to whether or not 5 percent is an appropriate figure to use. Additional detail on these calculations are included in the public docket for this rulemaking.

Miscellaneous Coating Operations

We estimate that the proposed standards for surface coating operations will have no net annual cost to surface coating operations. The initial cost of complying with the proposed standards would be off-set and recovered over time by cost savings as a result of more efficient use of labor and materials by surface coating operations. The initial costs for surface coating operations are for purchase improved spray booth filters, automated enclosed gun washers, HVLP spray guns, and painter training, if needed to comply with the proposed standards.

Spray finishing operations are already required by OSHA standards to perform spray painting in a spray booth or similar enclosure. However, the proposed standards specify that certain types of filters have to be used on the spray booth exhaust to minimize HAP emissions, and these filters are not addressed by OSHA standards. Some surface coating sources may need to replace their current filters for ones with higher paint overspray capture efficiency, but the higher efficiency filters are readily available and will not result in an additional cost.

We estimate that about 5,000 facilities would need to purchase and install an enclosed spray gun washer. The total capital cost for each source that would need to install a gun washer was estimated to be approximately $1,800. This cost is the same for new and existing sources. The total capital cost for all 5,000 sources that would be required to purchase a spray gun washer was estimated to be $9.0 million.

The EPA estimates that sources that would need to purchase a spray gun washer would have no net annualized capital costs or operating costs. We estimate the annual costs would be offset from reduced labor to clean spray guns and reduced costs for cleaning solvent purchase and disposal. Spray gun washers are automated so that after loading the spray gun in the washer, the painters can perform other tasks while the spray guns are being cleaned. Automated spray gun washers are also capable of re-using solvent for gun cleaning to minimize solvent consumption and waste disposal. Finally, small surface coating facilities that do not currently have an automated gun washer can still comply with the proposed standards by cleaning guns by hand as long as they do not atomize cleaning solvent from the gun and they collect spent solvent in a container that is closed when not in use.

The estimated cost for training is $1,000 per painter, which covers tuition cost and labor cost for 16 hours of training time. Based on the United States census data collected to estimate new sources for this source category the number of refinishing shops in the United States remain constant (i.e., for every new shop, a shop closes) and it is expected that this trend will continue in the future. This reflects on the number of new painters that would need training. We assumed that training certification would be valid for 5 years, so about one-fifth of painters (20 percent) would receive training every year. We estimate that about 18,000 painters would be trained per year at an annual cost of $18 million per year.

However, EPA believes that these training costs could be over-stated for at least two reasons. First, many facilities already send their painters to training sponsored by paint companies and trade organizations. Paint companies sponsor painter training so that the paint company can reduce warranty claims on their paint products. These training courses already cover much of the same material required by the proposed rule. Therefore, the rule would not impose new training costs on these facilities that already participate in training.

Second, the estimated training cost could be offset by reduced coating costs if the training results in reduced coating consumption. Data from the STAR® training programs indicate that painters who complete this training can decrease the amount of coating sprayed by about 20 percent per job. We estimate that if a typical facility reduced their coating consumption and costs by about 4 percent per year, the cost savings would equalize the increased cost of training after one year, and there would be no net cost in training. To recover the cost of training over 5 years, a typical facility would need to reduce their coating consumption by slightly less than 1 percent. As previously mentioned, EPA

believes the costs associated with training are over-stated; however, we specifically request comment on whether or not these assumptions are accurate.

In summary, EPA estimates that the proposed requirements for surface coating operations would not result in any net increase in annual costs from the control requirements for surface coating operations. We estimated that the annual cost for recordkeeping and reporting for surface coating operations would be $7.8 million for about 36,000 surface coating operations, or an average of about $220 per facility. Cost estimates are based on the information available to the Administrator and presented in the economic analysis of this rule. Additional detail is included in the public docket for this rulemaking.

C. What are the economic impacts?

The economic impact analysis focuses on changes in market prices and output levels. A more detailed discussion of the economic impacts is presented in the economic impact analysis memorandum that is included in the docket.

Both the magnitude of control costs needed to comply with the rule and the distribution of these costs among affected facilities can have a role in determining how the market prices and quantities will change in response to the rule. In this case, we have so many facilities that model facilities must be used in the cost analysis. The cost analysis estimates that there will be no net increase in annual costs from the control requirements from the proposed regulation for surface coating operations. The record keeping and reporting costs are estimated to range from $76 to $95 per facility per year.

These costs are too small to have any significant market impact. Whether the costs are absorbed by the affected facilities or passed on to the purchaser in the form of higher prices, the impacts would be quite small.

The cost analysis estimates that there will be a net cost savings from the control requirements, recordkeeping, and reporting from the proposed regulation for paint stripping for all but the smallest model plant. The cost for the smallest model plant is estimated to be $11 a year.

Again, these costs are too small to have any significant market impact. Whether the costs are absorbed by the affected facilities or passed on to the purchaser in the form of higher prices, the impacts would be quite small.

While most of these facilities are small, the very small costs are not expected to be even a tenth of a percent of revenues. Thus a significant impact is not expected for a substantial number of small entities.

D. What are the non-air health, environmental, and energy impacts?

Paint Stripping Operations

We estimate that there will be a reduction in non-air health and environmental impacts resulting from the paint stripping area source NESHAP. Reduced usage of MeCl-containing chemical strippers will result in reduction in waste water generated from rinsing chemically stripped pieces. Additionally, reduced chemical stripping activity will result in a reduction in the generation of hazardous wastes composed of rags and other chemical stripper applicators and removal equipment.

EPA expects some increase in the need for energy to resulting from switching away from MeCl-containing chemical strippers to other paint stripping methods. There would be a slight increase in energy usage associated with switching to other chemical strippers that do not contain MeCl because they often need to be heated above room temperature to be most effective. There is also some increase in energy usage associated with non-manual mechanical stripping and blasting with both dry and wet media.

The energy usage increase would be somewhat more for thermal decomposition or cryogenic paint stripping technologies. Thermal decomposition basically uses natural gas heated ovens to bake the paint off the substrate. Cryogenic paint stripping methods have increased electricity demands associated with the production of liquid nitrogen or liquid carbon dioxide.

Miscellaneous Coating Operations

We estimated that about 5,000 surface coating operations would need to install spray booths to comply with the proposed standards. Spray booths would need electricity to run fans and natural gas to heat make-up air to maintain facility temperatures in colder weather. We estimate that this would lead to an increased electricity consumption of 9.8 million kilowatt hours per year and increased natural gas consumption of 724 million cubic feet per year. However, spray booths are already required for spray finishing operations to comply with OSHA standards, so theses impacts would not be assigned to these proposed standards.

Facilities that install spray booths would also need to dispose of used spray booth filters. These are often placed in a sealed drum to prevent spontaneous combustion and disposed of as hazardous waste. We estimate that 5,000 new spray booths could generate used filters equal to about 8,000 drums per year.

Facilities that install enclosed spray gun washers would need to dispose of spent solvent as hazardous waste that formerly may have been allowed to evaporate. However, we cannot estimate this amount because we cannot determine the baseline disposal practices for facilities that did not have enclosed spray gun washers. If facilities previously handled spent solvent waste as hazardous waste, the installation of an enclosed spray gun washer could lead to a more efficient use of cleaning solvent and could reduce the volume of waste generated.

We expect no increase in generation of wastewater or other water quality impacts. None of the control measures considered for this rule generates a wastewater stream.

The installation of spray booths and enclosed gun washers, and increased worker training in the proper use and handling of coating materials should reduce worker exposure to harmful chemicals in the workplace. This should have a positive benefit on worker health, but this benefit cannot be quantified in the scope of this rulemaking.

VI. 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.'' Accordingly, EPA submitted this action to the Office of Management and Budget (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 collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2268.01.

The information collection requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting

requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The proposed standards would require sources to submit an initial notification that they are subject to the standards, submit a notification of whether or not the source is in compliance (the notification of compliance status), submit annual compliance reports, and keep records needed to demonstrate compliance. These requirements would be the minimum needed to ensure that sources were complying with the requirements of the proposed rule.

We estimate that about 40,000 existing area sources would be subject to the proposed standards. We estimate that about 1,600 new facilities would open per year in the 3 years following promulgation of the standards, but that the total number of facilities would remain constant as new facilities replace facilities that have closed.

New and existing sources would have no capital costs associated with the information collection requirements in the proposed standards.

The estimated recordkeeping and reporting burden in the third year after the effective date of the promulgated rule is estimated to be 62,877 labor hours at a cost of $2.2 million. This estimate includes, depending on the type of source, the cost of keeping records of paint stripping solvent consumption, painter training, spray booth filter efficiency, and spray gun transfer efficiency, and the cost of submitting annual compliance reports. The average hours and cost per facility would be 6.4 hours and $219. Each facility would be required to submit one compliance report per year. Starting in year 4, about 40,000 facilities would respond per year.

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.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, we have established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–2005–0526. Submit any comments related to the ICR for this proposed rule to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after September 17, 2007, a comment to OMB is best assured of having its full effect if OMB receives it by October 17, 2007. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

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, which for the entities affected by the proposed rule is generally one having less than 500 to 1,000 employees, depending on the specific NAICS code under which that business is classified, or annual revenues of less than $6.5 million, refer to NAICS code table listed previously; (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 rule 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 either of the three source categories because the proposed rule does not create any new burdens for existing sources, other than minimal notification and reporting requirements, and best management or equipment practices, which are designed to recover initial cost. We have determined that the cost of these requirements (estimated at less than $1,000 per year per facility) would not result in an adverse economic impact on any facility, large or small (i.e., the cost is less than one percent of total revenues, even for small businesses).

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. The proposed standards represent practices and controls that are common throughout the sources engaged in paint stripping and miscellaneous surface coating. The proposed standards also require the minimal amount of recordkeeping and reporting needed to demonstrate and verify compliance. These proposed standards were also developed in consultation with numerous individual small businesses and their representative trade associations. We continue to be interested in the potential impacts of the proposed rule 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), 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 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, based on discussions with State, local, and tribal governments during site visits, that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, the proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Some State, local, or tribal governments have paint stripping and/or miscellaneous surface coating operations (e.g., municipal fleet vehicle maintenance garages) that may be subject to the requirements of this proposed rule. However, we do not believe that any of them are operated by small government entities. Small government entities are expected to contract for refinishing services when these services are needed, rather than doing this work in-house. In addition, total expenditures for all entities to comply with the proposed rule are estimated to be less than $100 million in any year.

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.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The EPA is required by CAA section 112, to establish the standards in the proposed rule. The proposed rule primarily affects private industry, and does not impose significant economic costs on State or local governments. The proposed rule does not include an express provision preempting State or local regulations. Thus, the requirements of section 6 of the Executive Order do not apply to the proposed rule. Thus, Executive Order 13132 does not apply to this rule.

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

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''. This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, or the relation between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

Executive Order 13045: ''Protection Of Children From Environmental Health 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, 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 only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

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

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, Or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Some of the affected sources would be expected to install and operate spray booths to comply with the rule and these would require electricity and natural gas to operate. However the increased use of energy by these sources would not have a significant effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 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.

This proposed rulemaking involves technical standards. The EPA is citing the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Method 52.1, ''Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter, June 4, 1992,'' to measure paint booth filter efficiency to measure the capture efficiency of paint overspray arrestors with spray-applied coatings.

The EPA is also citing California South Coast Air Quality Management District's (SCAQMD) methods: ''Spray Equipment Transfer Efficiency Test Procedure For Equipment User, May 24, 1989'' and ''Guidelines for Demonstrating Equivalency with District Approved Transfer Efficient Spray Guns, September 26, 2002'' as methods to demonstrate the equivalency of spray gun transfer efficiency for spray guns that do not meet the definition of high-volume/low pressure (HVLP) or electrostatic spray.

Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these methods. The search and review results are in the docket for this rule.

One voluntary consensus standard was identified as applicable to this rule. The German standard DIN EN 13966–1:2003 ''Determination of the transfer efficiency of atomizing and spraying equipment for liquid coating materials—Part 1: Flat panels,'' appears to be applicable to this rule. We are inviting comment on the appropriateness of this standard to establish the transfer efficiency of spray guns that do not meet the definition of high-volume low-pressure or electrostatic spray guns.

For the methods required by the proposed rule, 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 section 63.7(f) and section 63.8(f) of subpart A of the General Provisions. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in regulation.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 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 this proposed rule 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 populations. The proposed rule establishes national standards for air quality that apply equally to all affected sources, whether or not they are located in or near minority or low-income populations. Hence there are no requirements in this proposal that would disproportionately affect these populations.

List of Subjects in 40 CFR Part 63

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

Dated: September 6, 2007.

Stephen L. Johnson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I 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. Part 63 is amended by adding subpart HHHHHH consisting of §§ 63.11169 through 63.11180 and table 1 to read as follows:

Subpart HHHHHH—National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources

What This Subpart Covers

Sec.

Subpart HHHHHH—National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources

What This Subpart Covers

§ 63.11169 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants for paint stripping operations at area sources that involve the use of paint strippers (chemical formulations) that contain methylene chloride (MeCl) in paint removal processes, and/or miscellaneous surface coating operations at area sources. This subpart also establishes requirements to demonstrate initial and continuous compliance with the management practice standards contained herein.

§ 63.11170 Am I subject to this subpart?

(a) You are subject to this subpart if your facility is an area source of hazardous air pollutants (HAP) as defined in paragraph (c) of this section, including sources that are part of a tribal, local, State, or Federal facility and you:

(1) Perform paint stripping operations using a paint stripper containing MeCl, and/or

(2) Perform miscellaneous surface coating operations (including autobody refinishing).

(b) Paint stripping means the removal of dried coatings from wood, metal, plastic, and other substrates. Miscellaneous surface coating is the application of a coating to a substrate

using, for example, spray guns, brushes, or rollers. When application of coating to a substrate occurs, then miscellaneous surface coating operations also include associated activities, such as surface prep, cleaning, mixing, and storage.

(c) An area source of HAP is a source of HAP that is not a major source of HAP, is not located at a major source, and is not part of a major source of HAP emissions. A major source of HAP 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.

(d) This subpart does not apply to paint stripping or surface coating operations that meet any of the criteria of paragraphs (d)(1) through (2) of this section.

(1) Paint stripping or surface coating performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State), or the National Aeronautics and Space Administration.

(2) Paint stripping or surface coating of military munitions manufactured by or for the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State) or equipment directly and exclusively used for the purposes of transporting military munitions as defined in § 63.11180.

(e) If you are an owner or operator of an area source subject to this subpart, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart applicable to area sources.

§ 63.11171 What operations does this subpart cover?

(a) This subpart applies to each new and existing affected area source engaged in the activities listed in paragraphs (a)(1) through (3) of this section:

(1) All paint stripping that involves the use of a paint stripper that contains MeCl;

(2) Surface coating of miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic; and

(3) Finishing and refinishing of motor vehicles and mobile equipment.

(b) The affected source is the collection of all of the items listed in paragraphs (b)(1) through (6) of this section. Not all affected sources will have all of the items listed in paragraphs (b)(1) through (6) of this section.

(1) Mixing rooms and equipment;

(2) Spray booths, ventilated prep stations, curing ovens, and associated equipment;

(3) Spray guns and associated equipment;

(4) Spray gun cleaning equipment;

(5) Equipment used for storage, handling, recovery, or recycling of cleaning solvent or waste paint; and

(6) Equipment used for paint stripping at paint stripping facilities using paint strippers containing MeCl.

(c) An affected source is a new source if it meets the criteria in paragraphs (c)(1) and (c)(2) of this section.

(1) You commenced the construction of the source after September 17, 2007 by installing new paint stripping or surface coating equipment. If you purchase and install paint stripping equipment, spray booths, enclosed spray gun cleaners, or purchase new spray guns to comply with this subpart at an existing source, these actions would not make your existing source a new source.

(2) The new paint stripping or surface coating equipment is used at a source that was not actively engaged in paint stripping and/or miscellaneous surface coating prior to September 17, 2007.

(d) An affected source is reconstructed if it meets the definition of reconstruction in § 63.2.

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

General Compliance Requirements

§ 63.11172 When do I have to comply with this subpart?

The date by which you must comply with this subpart is called the compliance date. The compliance date for each type of affected source is specified in paragraphs (a) and (b) of this section.

(a) For a new or reconstructed affected source, the compliance date is the applicable date in paragraph (a)(1) or (2) of this section:

(1) If the initial startup of your new or reconstructed affected source is after September 17, 2007, the compliance date is [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**].

(2) If the initial startup of your new or reconstructed affected source occurs after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], the compliance date is the date of initial startup of your affected source.

(b) For an existing affected source, the compliance date is the date 2 years after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**].

§ 63.11173 What are my general requirements for complying with this subpart?

(a) Each paint stripping operation that is an affected area source must implement management practices to minimize the evaporative emissions of MeCl. The management practices must address, at a minimum, the practices in paragraphs (a)(1) through (6) of this section, as applicable, for your operations.

(1) Evaluate each application to ensure there is a need for paint stripping (e.g., evaluate whether it is possible to re-coat the piece without removing the existing coating).

(2) Evaluate each application where a paint stripper containing MeCl is used to ensure that there is no alternative paint stripping technology that can be used.

(3) Reduce exposure of all paint strippers containing MeCl to the air (e.g., use of a water layer or hollow plastic spheres to cover the stripper in an immersion tank).

(4) Optimize application conditions when using paint strippers containing MeCl to reduce MeCl evaporation (e.g., if the stripper must be heated, make sure that the temperature is kept as low as possible to reduce evaporation).

(5) Practice proper storage and disposal of paint strippers containing MeCl (e.g., store stripper in closed, air-tight containers).

(b) Each paint stripping operation with annual usage of 150 gallons or more of paint strippers containing MeCl must develop and implement a written MeCl minimization plan to minimize the use and emissions of MeCl. The MeCl minimization plan must address, at a minimum, the management practices specified in paragraphs (a)(1) through (5) of this section, as applicable, for your operations. Each operation must post a placard or sign outlining the MeCl minimization plan in each area where paint stripping operations subject to this subpart occur.

(c) Each paint stripping operation must maintain copies of annual usage of paint strippers containing MeCl on-site at all times.

(d) Each paint stripping operation with annual usage of 150 gallons or more of paint strippers containing MeCl must maintain a copy of their current

MeCl minimization plan on-site at all times.

(e) Each miscellaneous surface coating operation must meet the requirements in paragraphs (e)(1) through (e)(5) of this section.

(1) All painters must be certified that they have completed training in the proper spray application of surface coatings and the proper setup and maintenance of spray equipment. The minimum requirements for training and certification are described in paragraph (f) of this section. The spray application of surface coatings is prohibited by persons who are not certified as having completed the training described in paragraph (f) of this section. The requirements of this paragraph do not apply to the students of an accredited surface coating training program who are under the direct supervision of an instructor who meets the requirements of this paragraph.

(2) All spray-applied coatings must be applied in a spray booth or preparation station that meets the requirements of paragraph (e)(2)(i) of this section and either paragraph (e)(2)(ii) or (e)(2)(iii) of this section.

(i) All spray booths and preparation stations must be fitted with polyester fiber or fiberglass particle filters on the exhaust, or must be fitted with a type of filter technology that is demonstrated to achieve at least 98-percent capture of paint overspray. The procedure used to demonstrate filter efficiency must be consistent with the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Method 52.1, ''Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter, June 4, 1992.''

(ii) Spray booths and preparation stations used to refinish complete motor vehicles or mobile equipment must be fully enclosed with a full roof, and four complete walls or complete side curtains, and must be ventilated at negative pressure so that air is drawn into any openings in the booth walls or preparation station curtains.

(iii) Spray booths and preparation stations that are used to coat miscellaneous parts and products or vehicle subassemblies must have a full roof, at least three complete walls or complete side curtains, and must be ventilated so that air is drawn into the booth.

(3) All spray-applied coatings must be applied with a high-volume, low-pressure (HVLP) spray gun, electrostatic application, or an equivalent technology that is demonstrated by the spray gun manufacturer to achieve comparable transfer efficiency, and for which written approval has been obtained from the Administrator. The procedure used to demonstrate that spray gun transfer efficiency is equivalent to that of an HVLP spray gun must be equivalent to the California South Coast Air Quality Management District's ''Spray Equipment Transfer Efficiency Test Procedure for Equipment User, May 24, 1989'' and ''Guidelines for Demonstrating Equivalency with District Approved Transfer Efficient Spray Guns, September 26, 2002.''

(4) All paint spray gun cleaning must be done with either non-HAP gun cleaning solvents, or with a fully enclosed spray gun cleaner. Hand cleaning of parts of the disassembled gun, such as the air cap, with HAP-containing solvent is permitted. Spraying of atomized or non-atomized HAP-containing cleaning solvent through the gun outside of the enclosed portion of the gun cleaner, or when the gun cleaner is opened, is prohibited.

(5) As provided in § 63.6(g), we, the U.S. Environmental Protection Agency, may choose to grant you permission to use an alternative to the management practice standards in this section after you have requested approval to do so according to § 63.6(g)(2).

(f) Each owner or operator of an affected miscellaneous surface coating source must ensure and certify that all new and existing personnel, including contract personnel, who spray apply surface coatings are trained in the proper application of surface coatings as required by paragraph(e)(1) of this section. The training program must include, at a minimum, the items listed in paragraphs (f)(1) to (f)(3) of this section.

(1) A list of all current personnel by name and job description who are required to be trained;

(2) Hands-on and classroom instruction that addresses, at a minimum, initial and refresher training in the topics listed in paragraphs (f)(2)(i) through (2)(viii) of this section.

(i) Surface prep.

(ii) Spray gun set up and operation and spray technique for different types of coatings to improve transfer efficiency and minimize coating usage and overspray.

(iii) Routine spray booth and filter maintenance.

(iv) Paint mixing, matching, and applying.

(v) Solving paint application problems.

(vi) Finish defects causes and cures.

(vii) Safety precautions.

(viii) Environmental compliance.

(3) A description of the methods to be used at the completion of initial or refresher training to demonstrate, document, and provide certification of successful completion of the required training.

(g) As required by paragraph (e)(1) of this section, all new and existing personnel at an affected miscellaneous surface coating source, including contract personnel, who spray apply surface coatings must be trained by the dates specified in paragraphs (g)(1) and (2).

(1) If your source is a new source, all personnel must be trained and certified no later than 60 days after hiring or no later than 60 days after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], whichever is later. Painter training that was completed within 5 years prior to the date training is required, and that meets the requirements specified in paragraph (f)(2) of this section satisfies this requirement and is valid for a period not to exceed 5 years after the date the training is completed.

(2) If your source is an existing source, all personnel must be trained and certified no later than the compliance date specified in § 63.11172(b). Painter training that was completed within 5 years prior to the date training is required, and that meets the requirements specified in paragraph (f)(2) of this section satisfies this requirement and is valid for a period not to exceed 5 years after the date the training is completed.

(3) Training and certification will be valid for a period not to exceed 5 years after the date the training is completed, and all personnel must receive refresher training that meets the requirements of this section and be re-certified every 5 years.

§ 63.11174 What parts of the General Provisions apply to me?

Table 1 of this subpart shows which parts of the General Provisions in subpart A of this part apply to you.

Notifications, Reports, and Records

§ 63.11175 What notifications must I submit?

(a) Initial Notification. If you are the owner or operator of a paint stripping operation using paint strippers containing MeCl and/or a miscellaneous surface coating operation, you must submit the Initial Notification required by § 63.9(b) for a new affected source no later than 120 days after initial startup or [DATE 120 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], whichever is later. For an existing affected source, you must submit the Initial Notification no later than [DATE

1 YEAR AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**]. Your Initial Notification must provide the information specified in paragraphs (a)(1) through (6) of this section.

(1) The name, address, phone number and e-mail address of the owner and operator;

(2) The address (physical location) of the affected source;

(3) An identification of the relevant standard (i.e., this subpart);

(4) A brief description of the type of operation. For example:

(i) For miscellaneous parts and products, identify whether the substrate is metal, plastic, or a combination of metal and plastic, brief characterization of the types of products (e.g., aerospace components, sports equipment, etc.) number of spray booths, and number of painters usually employed at the operation; and

(ii) For motor vehicle or mobile equipment finishing or refinishing, identify the type of operation (e.g., original equipment manufacturer, collision repair facility, production paint shop performing complete paint jobs, automobile restoration or customizing shop, mobile equipment repair and refinishing operation), number of spray booths, number of preparation stations, and number of painters usually employed at the operation.

(5) If a paint stripping operation uses 150 gallons of paint strippers containing MeCl they must submit a written MeCl minimization plan in accordance with § 63.11173(b).

(6) If a paint stripping operation uses less than 150 gallons of paint strippers containing MeCl and chooses not to develop and implement a written MeCl minimization plan in accordance with § 63.11173(b), you must submit a statement signed by a responsible official that certifies the paint stripping operation will not use more than 150 gallons of paint strippers containing MeCl during any calendar year in the future.

(b) Notification of Compliance Status. If you are the owner or operator of an existing affected paint stripping source that annually uses more than 150 gallons of paint strippers containing MeCl or an existing affected coating source, you must submit a Notification of Compliance Status on or before [DATE 2 YEARS AND 60 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**]. If you are the owner or operator of a new affected paint stripping source that annually uses more than 150 gallons of paint strippers containing MeCl or a new affected coating source, you must submit a Notification of Compliance Status within 120 days after initial startup, or by [DATE 120 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], whichever is later. You are required to submit the information specified in paragraphs (b)(1) through (3) of this section with your Notification of Compliance Status:

(1) Your company's name and address.

(2) A statement by a responsible official with that official's name, title, phone number, e-mail address and signature, certifying the truth, accuracy, and completeness of the notification and a statement of whether the source has complied with all the relevant standards and other requirements of this subpart.

(3) The date of the Notification of Compliance Status.

(4) For each paint stripping affected source, you must include also the method(s) of paint stripping employed and the annual usage of paint strippers containing MeCl for each of the previous 5 calendar years.

§ 63.11176 What reports must I submit?

(a) Annual Compliance Report. If you are the owner or operator of an affected paint stripping source that annually uses more than 150 gallons of paint strippers containing MeCl or an affected miscellaneous surface coating source, you are required to submit an Annual Compliance Report to the Administrator containing the information specified in paragraphs (a)(1) through (4) of this section. The annual compliance report must cover each calendar year, beginning with the remainder of the calendar year after the initial compliance date for your source.

(1) Your company's name and address.

(2) A statement by a responsible official with that official's name, title, phone number, e-mail address and signature, certifying the truth, accuracy, and completeness of the report, and certifying whether the source is in compliance with the paint stripping and miscellaneous surface coating standards. If the source is not in compliance, include a description of the deviations from the requirements in §§ 63.11173, 63.11174, 63.11177, and 63.11178, the time periods during which the deviations occurred, and the corrective actions taken.

(3) Date of report.

(4) If your source includes paint stripping operations, include also the method(s) of paint stripping employed at the facility during the period and annual usage of paint strippers containing MeCl for paint stripping.

(b) You must submit the annual compliance report for each calendar year no later than March 1 of the following calendar year.

(c) If you are operating under a Title V permit, certification of compliance under your permit is sufficient to meet the Annual Compliance Report requirement.

§ 63.11177 What records must I keep?

If you are the owner or operator of a miscellaneous surface coating operation, you must keep the records specified in paragraphs (a) through (d) and (g) of this section. If you are the owner or operator of a paint stripping operation, you must keep the records specified in paragraphs (e) through (g) of this section.

(a) Certification that each painter has completed the training specified in § 63.11173(f) with the date the initial training and the most recent refresher training was completed.

(b) Documentation of the filter efficiency of any spray booth exhaust filter material that is not a polyester fiber or fiberglass filter, according to the procedure in § 63.11173(e)(3)(i).

(c) Documentation from the spray gun manufacturer that each spray gun that does not meet the definition of an HVLP spray gun, electrostatic application, or air brush has been determined by the Administrator to achieve a transfer efficiency equivalent to that of an HVLP spray gun, according to the procedure in § 63.11173(e)(4).

(d) Copies of any notification submitted as required by § 63.11175 and copies of any report submitted as required by § 63.11176.

(e) Records of paint strippers containing MeCl used for paint stripping operations at your facility, including the MeCl content of the paint stripper used. Documentation needs to be sufficient to verify annual usage of paint strippers containing MeCl (e.g., material safety data sheets or other documentation provided by the manufacturer or supplier of the paint stripper, purchase receipts, records of paint stripper usage, engineering calculations).

(f) If you are a paint stripping source that annually uses more than 150 gallons of paint strippers containing MeCl, you are required to maintain a record of your current MeCl minimization plan on-site for the duration of your facility's operations.

(g) Records of any deviation from the requirements in §§ 63.11173, 63.11174, 63.11175, or 63.11176. These records must include the date and time period of the deviation, and a description of the

nature of the deviation and the actions taken to correct the deviation.

§ 63.11178 In what form and for how long must I keep my records?

If you are the owner or operator of an affected source, you must maintain copies of the records specified in § 63.11177 for a period of at least 5 years after the date of each record. Copies of records must be kept on site and in a printed or electronic form that is readily accessible for inspection for at least the first 2 years after their date, and may be kept off-site after that 2-year period.

Other Requirements and Information

§ 63.11179 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (EPA), or a delegated authority such as your State, local, or tribal agency. If the Administrator has delegated authority to your State, local, or tribal agency, then that agency (as well as the EPA) has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of 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 subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator and are not transferred to the State, local, or tribal agency.

(c) The authority in § 63.11173(d)(3) and (e)(6) will not be delegated to State, local, or tribal agencies.

§ 63.11180 What definitions do I need to know?

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

Additive means a material that is added to a coating after purchase from a supplier (e.g., catalysts, activators, accelerators).

Air brush means a hand-held air-atomized spray gun intended for spot repair and graphic arts work with a paint cup capacity of no more than 1.0 fluid ounce (30 cc).

Cleaning material means a solvent used to remove contaminants and other materials, such as dirt, grease, or oil, from a substrate before or after coating application or from equipment associated with a coating operation, such as spray booths, spray guns, racks, tanks, and hangers. Thus, it includes any cleaning material used on substrates or equipment or both.

Coating means a material applied to a substrate for decorative, protective, or functional purposes. Such materials include, but are not limited to, paints, sealants, caulks, and maskants. Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or any combination of these substances, or paper film or plastic film which may be pre-coated with an adhesive by the film manufacturer, are not considered coatings for the purposes of this subpart.

Compliance date means the date by which you must comply with this subpart.

Dry media blasting means abrasive blasting using dry media. Dry media blasting relies on impact and abrasion to remove paint from a substrate. Typically, a compressed air stream is used to propel the media against the coated surface.

Electrostatic application means any method of coating application where an electrostatic attraction is created between the part to be coated and the atomized paint particles.

Equipment cleaning means the use of an organic solvent to remove coating residue from the surfaces of paint spray guns and other painting related equipment, including, but not limited to stir sticks, paint cups, brushes, and spray booths.

High-volume, low-pressure (HVLP) spray equipment means spray equipment that is permanently labeled as such and used to apply any coating by means of a spray gun which is designed and operated between 0.1 and 10 pounds per square inch gauge (psig) air atomizing pressure measured dynamically at the center of the air cap and at the air horns.

Initial startup means the first time equipment is brought online in a paint stripping or surface coating operation, and paint stripping or surface coating is first performed.

Materials that contain HAP or *HAP-containing materials* mean, for the purposes of this subpart, materials that contain 0.1 percent or more by mass of any individual HAP that is an OSHA-defined carcinogen as specified in 29 CFR 1910.1200(d)(4), or 1.0 percent or more by mass for any other individual HAP.

Military munitions means all ammunition products and components produced or used by or for the U.S. Department of Defense (DoD) or for the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the National Nuclear Security Administration (NNSA), U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DoD components, including bulk explosives and chemical warfare agents, chemical munitions, biological weapons, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, nonnuclear components of nuclear weapons, wholly inert ammunition products, and all devices and components of any items listed in this definition.

Miscellaneous parts and/or products means any part or product made of metal or plastic, or combinations of metal and plastic. Miscellaneous parts and/or products include, but are not limited to, metal and plastic components of the following types of products as well as the products themselves: Motor vehicle parts and accessories for automobiles, trucks, recreational vehicles; automobiles and light duty trucks at automobile and light duty truck assembly plants; boats; sporting and recreational goods; toys; business machines; laboratory and medical equipment; and household and other consumer products.

Miscellaneous surface coating operation means the collection of equipment used to apply surface coating to miscellaneous parts and/or products or to finish or refinish motor vehicles or mobile equipment including applying cleaning solvents to prepare the surface before coating application, mixing coatings before application, applying coating to a surface, drying or curing the coating after application, and cleaning coating application equipment, but not plating. A single surface coating operation may include any combination of these types of equipment, but always includes at least the point at which a coating material is applied to a given part. A surface coating operation includes all other steps (such as surface preparation with solvent and equipment cleaning) in the affected source where HAP are emitted from the coating of a part. The use of solvent to clean parts (for example, to remove grease during a mechanical repair) does not constitute a miscellaneous surface coating operation if no coatings are applied. A single affected source may have multiple surface coating operations. Coating application with air brush, non-refillable handheld aerosol cans, touch-up markers, or marking pens is not a

miscellaneous surface coating operation for the purposes of this subpart.

Mobile equipment means any device that may be drawn and/or driven on a roadway including, but not limited to, heavy-duty trucks, truck trailers, fleet delivery trucks, buses, mobile cranes, bulldozers, street cleaners, agriculture equipment, motor homes, and other recreational vehicles (including camping trailers and fifth wheels).

Motor vehicle means any self-propelled vehicle, including, but not limited to, automobiles, light duty trucks, golf carts, vans, and motorcycles.

Non-HAP solvent means, for the purposes of this subpart, a solvent (including thinners and cleaning solvents) that contain less than 0.1 percent by mass of any individual HAP that is an OSHA-defined carcinogen as specified in 29 CFR 1910.1200(d)(4) and less than 1.0 percent by mass for any other individual HAP.

Paint stripping and/or miscellaneous surface coating source or facility means any shop, business, location, or parcel of land where paint stripping or miscellaneous surface coating operations are conducted.

Paint stripping means the removal of dried coatings from wood, metal, plastic, and other substrates. A single affected source may have multiple paint stripping operations.

Painter means any facility personnel who apply coating materials.

Plastic refers to substrates containing one or more resins and may be solid, porous, flexible, or rigid.

Protective oil means organic material that is applied to metal for the purpose of providing lubrication or protection from corrosion without forming a solid film. This definition of protective oil includes, but is not limited to, lubricating oils, evaporative oils (including those that evaporate completely), and extrusion oils.

Solvent means a fluid containing organic compounds used to perform paint stripping, surface prep, or cleaning of surface coating equipment.

Spot repair means the repair of the finish on motor vehicles, mobile equipment, or associated parts or components that is less than 1 square foot in area.

Surface preparation or *Surface prep* means use of a cleaning material on a portion of or all of a substrate prior to the application of a coating.

Transfer efficiency means the amount of coating solids adhering to the object being coated divided by the total amount of coating solids sprayed, expressed as a percentage. Coating solids means the nonvolatile portion of the coating that makes up the dry film.

Truck bed liner coating means any coating, excluding color coats, labeled and formulated for application to a truck bed to protect it from surface abrasion.

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

Citation	Subject	Applicable to Subpart HHHHHH	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability of subpart HHHHHH is also specified in § 63.11170.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)	Applicability of Permit Program for Area Sources.	Yes	§ 63.11170(e) of Subpart HHHHHH exempts area sources from the obligation to obtain Title V operating permits.
§ 63.1(c)(5)	Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program to Major Sources Before Relevant Standard is Set.	No	§ 63.11170(e) of Subpart HHHHHH exempts area sources from the obligation to obtain Title V operating permits.
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.11180.
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Fragmentation	Yes.	
§ 63.5	Construction/Reconstruction of major sources	No	Subpart HHHHHH applies only to area sources.
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.11172 specifies the compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	§ 63.11172 specifies the compliance dates.
§ 63.6(e)(1)–(2)	Operation and Maintenance	Yes.	
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan	No	No startup, shutdown, and malfunction plan is required by subpart HHHHHH.
§ 63.6(f)(1)	Compliance Except During Startup, Shutdown, and Malfunction.	Yes.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of an Alternative Standard	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart HHHHHH does not establish opacity or visible emission standards.
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7	Performance Testing Requirements	No	No performance testing is required by subpart HHHHHH.
§ 63.8	Monitoring Requirements	No	Subpart HHHHHH does not require the use of continuous monitoring systems.
§ 63.9(a)–(d)	Notification Requirements	Yes	§ 63.11175 specifies notification requirements.

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

Citation	Subject	Applicable to Subpart HHHHHH	Explanation
§ 63.9(e)	Notification of Performance Test	No	Subpart HHHHHH does not require performance tests.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test	No	Subpart HHHHHH does not have opacity or visible emission standards.
§ 63.9(g)	Additional Notifications When Using CMS	No	Subpart HHHHHH does not require the use of continuous monitoring systems.
§ 63.9(h)	Notification of Compliance Status	No	§ 63.11175 specifies the dates and required content for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in § 63.11177.
§ 63.10(b)(2)(i)–(xi)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	No	Subpart HHHHHH does not require startup, shutdown, and malfunction plans, or CMS.
§ 63.10(b)(2)(xii)	Waiver of recordkeeping requirements	Yes.	
§ 63.10(b)(2)(xiii)	Alternatives to the relative accuracy test	No	Subpart HHHHHH does not require the use of CEMS.
§ 63.10(b)(2)(xiv)	Records supporting notifications	Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)	Additional Recordkeeping Requirements for Sources with CMS.	No	Subpart HHHHHH does not require the use of CMS.
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.11176.
§ 63.10(d)(2)–(3)	Report of Performance Test Results, and Opacity or Visible Emissions Observations.	No	Subpart HHHHHH does not require performance tests, or opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	No	Subpart HHHHHH does not require startup, shutdown, and malfunction reports.
§ 63.10(e)	Additional Reporting requirements for Sources with CMS.	No	Subpart HHHHHH does not require the use of CMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares	No	Subpart HHHHHH does not require the use of flares.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses of State Air Pollution Control Agencies and EPA Regional Offices.	Yes.	
§ 63.14	Incorporation by Reference	Yes	Test methods for measuring paint booth filter efficiency and spray gun transfer efficiency in § 63.11173(e)(2) and (4) are incorporated and included in § 63.14.
§ 63.15	Availability of Information/Confidentiality	Yes.	
§ 63.16(a)	Performance Track Provisions—reduced reporting.	Yes.	
§ 63.16(b)–(c)	Performance Track Provisions—reduced reporting.	No	Subpart HHHHHH does not establish numerical emission limits.

[FR Doc. E7–17973 Filed 9–14–07; 8:45 am]

BILLING CODE 6560–50–P