ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2019–0208; FRL–10006–06–OAR]

RIN 2060–AU17

National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Solvent Extraction for Vegetable Oil Production source category regulated under national emission standards for hazardous air pollutants (NESHAP). Based on the results of the U.S. Environmental Protection Agency's (EPA's) risk review, the Agency is finalizing the decision that risks due to emissions of air toxics from this source category are acceptable and that the current NESHAP provides an ample margin of safety to protect public health. Under the technology review, the EPA is finalizing the decision that there are no developments in practices, processes, or control technologies that necessitate revision of the standards. Therefore, the EPA is finalizing no revisions to the numerical emission limits based on the risk and technology reviews. We are taking final action to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM), including removing general exemptions for periods of SSM, adding alternative work practice standards for periods of initial startup for new or significantly modified sources, and making other minor clarifications or corrections. The EPA is also taking final action to add provisions for electronic reporting of certain notifications and reports and performance test results; and make other minor clarifications and corrections. These final amendments will result in improved compliance and implementation of the rule.

DATES: This final rule is effective on March 18, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2019–0208. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. Bill Schrock, Natural Resources Group, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5032; fax number: (919) 541–0516; and email address: *schrock.bill@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Matthew Woody, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1535; fax number: (919) 541–0840; and email address: *woody.matthew@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Maria Malave, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564–7027; and email address: *malave.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EPA Environmental Protection Agency
HAP hazardous air pollutant(s)
HI hazard index
HQ hazard quotient
ICR Information Collection Request
km kilometer
MACT maximum achievable control technology
MIR maximum individual risk
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PRA Paperwork Reduction Act
REL reference exposure level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
the Court United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standards

Background information. On June 27, 2019, the EPA proposed revisions to the Solvent Extraction for Vegetable Oil Production NESHAP in conjunction with our RTR for the Solvent Extraction for Vegetable Oil Production source category (84 FR 30812). In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the *Summary of Public Comments and Responses for the Risk and Technology Review for Solvent Extraction For Vegetable Oil Production,* in Docket ID No. EPA–HQ–OAR–2019–0208. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS [a] code
Flour Milling	Solvent Extraction for Vegetable Oil Production	311211
Wet Corn Milling		311221
Fats and Oils Refining and Blending		311225
Other Animal Food Manufacturing		311119
Soybean and Other Oilseed Processing		311224
Fats and Oils Refining and Blending		311225

[a] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/solvent-extraction-vegetable-oil-production-national-emission.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by May 18, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations (see CAA section 112(d)(3)). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 30812, June 27, 2019.

B. What is the Solvent Extraction for Vegetable Oil Production source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Solvent Extraction for Vegetable Oil Production NESHAP on April 12, 2001 (66 FR 19006). The standards are codified at 40 CFR part 63, subpart GGGG. As promulgated in 2001 and further amended on April 5, 2002 (67 FR 16317), and September 1, 2004 (69 FR 53338), the NESHAP regulates HAP emissions from solvent extraction for vegetable oil production processes at a facility that is a major source of HAP emissions. The affected source is each vegetable oil production process. A vegetable oil production process means the equipment comprising a continuous process for producing crude vegetable oil and meal products, including specialty soybean products, in which oil is removed from oilseeds listed in Table 1 of 40 CFR 63.2840 through direct contact with an organic solvent. Process equipment typically includes the following components: oilseed preparation operations (including conditioning, drying, dehulling, and cracking), solvent extractors, desolventizer-toasters, meal dryers, meal coolers, meal conveyor systems, oil distillation units, solvent evaporators and condensers, solvent recovery system (also referred to as a mineral oil absorption system), vessels storing solvent-laden materials, and crude meal packaging and storage vessels. A vegetable oil production process does not include vegetable oil refining operations (including operations such as bleaching, hydrogenation, and deodorizing) and operations that engage in additional chemical treatment of crude soybean meals produced in specialty desolventizer units (including operations such as soybean isolate production). The source category covered by this MACT standard currently includes 89 facilities.

The primary HAP emitted from vegetable oil production processes is n-hexane. The EPA does not consider n-hexane classifiable as a human carcinogen. However, short-term exposure to n-hexane can cause reactions such as irritation, dizziness, headaches, and nausea. Long-term exposure can cause permanent nerve damage.

The current NESHAP controls facility-wide n-hexane emissions by setting emission limitations based on the number of gallons of HAP lost per ton of oilseeds processed, expressed as oilseed solvent loss ratios. Facilities demonstrate compliance by calculating a compliance ratio comparing the actual HAP loss to the allowable HAP loss for the previous 12 operating months. Allowable HAP loss is based on the oilseed solvent loss ratios provided in Table 1 of 40 CFR 63.2840 of the rule for new and existing sources. Compliance is demonstrated when the facility's calculated compliance ratio is less than or equal to 1.00 (*i.e.,* the actual HAP loss is no greater than the calculated allowable HAP loss). Determination of compliance with the requirements of the Solvent Extraction for Vegetable Oil Production NESHAP requires the facility to keep records of the amount of n-hexane purchased, used, and recovered from the oilseed extraction process, the amount of oilseed processed, and the volume fraction of each HAP exceeding 1 percent in the extraction solvent used. Facilities may also adjust their solvent loss to account for cases where solvent is routed through a closed vent system

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (DC Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

to a control device that is used to reduce emissions to meet the standard.

C. What changes did we propose for the Solvent Extraction for Vegetable Oil Production source category in our June 27, 2019, RTR proposal?

On June 27, 2019, the EPA published a proposed rule in the **Federal Register** for the Solvent Extraction for Vegetable Oil Production NESHAP, 40 CFR part 63, subpart GGGG, that took into consideration the RTR analyses. In the proposed rule, we proposed that the risks from the source category are acceptable and the current standards provide an ample margin of safety to protect public health. In addition, pursuant to the technology review for the Solvent Extraction for Vegetable Oil Production source category, we proposed no revisions to the current standards based on these analyses.

We proposed revisions to the SSM provisions of the standards to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. We therefore proposed that the standards would apply at all times, including during startups, shutdowns, and malfunctions (see 40 CFR 63.2840(a) and Table 1 to 40 CFR 63.2870 (General Provisions Applicability Table). Additionally, we proposed to remove requirements that allowed sources to previously designate a source operating status period as a ''malfunction period'' and exclude data collected during the ''malfunction period'' when determining compliance with the emission standards.[2] Under the proposed rule, sources that continue to operate must instead meet the emission standard requirements for either a normal operating period or the work practice standards for an initial startup period (if applicable) in 40 CFR 63.2850 and Table 1 of 40 CFR 63.2850. In proposing the revised standards, the EPA considered whether to set separate standards for startup and shutdown periods, but only found that separate standards were necessary for initial startup periods for new or significantly modified sources. For periods of initial startup following new construction or significant modification, we proposed work practice standards and a requirement to establish and follow site-specific operating ranges for temperature and vacuum for the desolventizing and oil distillation units associated with solvent recovery, as well as associated recordkeeping and reporting requirements (*e.g.,* initial startup report) for these periods.

We proposed to require electronic reporting of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). We also proposed minor clarifications and corrections to five definitions (*i.e.,* ''Compliance ratio,'' ''Nonoperating period,'' ''Normal operating period,'' ''Operating month,'' and ''Hazardous air pollutant (HAP)'') and to 40 CFR 63.2840(a)(1) and (b)(1), 40 CFR 63.2853(a)(2), 40 CFR 63.2855(a)(3), and Table 1 of 40 CFR 63.2850. Refer to section IV.D of the June 27, 2019, proposal preamble for further discussion of these proposed amendments and the EPA's rationale for these changes (84 FR 60825).

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Solvent Extraction for Vegetable Oil Production source category. This action also finalizes other changes to the NESHAP, including revisions to the SSM provisions of the MACT rule in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), provisions for electronic reporting of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports; and other minor editorial and technical changes. This action reflects several changes to the proposed rule in consideration of comments received during the public comment period as described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Solvent Extraction for Vegetable Oil Production source category?

This section describes the final risk determination for the Solvent Extraction for Vegetable Oil Production NESHAP being promulgated pursuant to CAA section 112(f). The EPA proposed no changes to the Solvent Extraction for Vegetable Oil Production NESHAP based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from this source category are acceptable, and that the standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Section IV.A.3 of this preamble provides a summary of key comments we received regarding the risk review and our responses to those comments.

B. What are the final rule amendments based on the technology review for the Solvent Extraction for Vegetable Oil Production source category?

The EPA is finalizing the technology review as proposed. We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the Solvent Extraction for Vegetable Oil Production NESHAP to remove and revise provisions related to SSM. As detailed in section IV.D of the proposal preamble (84 FR 30825), the final amendments to the Solvent Extraction for Vegetable Oil Production NESHAP require that the standards apply at all times (see 40 CFR 63.2840(a) and Table 1 to 40 CFR 63.2870 (General Provisions applicability table), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008).

We are finalizing that the emission standards for normal operation apply at all times, except for periods of initial

[2] The 2001 NESHAP allowed for facilities to determine compliance based on the distinct categorized operating status of the facility (normal operating, nonoperating, initial startup, malfunction, or exempt) during a compliance period, as defined in Table 1 of 40 CFR 63.2853. Existing and new sources operating during a malfunction period could either meet the compliance requirements for normal operation periods in 40 CFR 63.2850 and Table 1 of 40 CFR 63.2850 or the requirements for malfunction periods subject to 40 CFR 63.2850(e)(2) and Table 1 of 40 CFR 63.2850 (for which no limits or work practices applied). Sources operating during a malfunction period were not required to determine compliance using data recorded for the malfunction period. We proposed to remove the option for facilities to categorize the operating period as a malfunction period and to remove the option to meet the requirements for malfunction periods subject to 40 CFR 63.2850(e)(2) and Table 1 of 40 CFR 63.2850, such that the standards apply at all times. Sources that continue to operate during a malfunction must continue to meet the general duty requirements at 40 CFR 63.2840(g). The term ''malfunction period'' is retained in the rule only as it applies to facilities prior to September 15, 2020.

startup for new and significantly modified sources, as described below in this section and in section IV.C of this preamble. For periods of initial startup for new or significantly modified sources, we are finalizing work practice standards, including operation of the mineral oil absorption system and solvent condensers at all times during the initial startup period, and a requirement to establish and follow site-specific operating ranges for temperature and vacuum for the desolventizing and oil distillation units associated with solvent recovery, as well as associated recordkeeping and reporting requirements (*e.g.,* initial startup report) for these periods. Facilities will continue to have the option to meet the requirements for normal operating periods in Table 1 of 40 CFR 63.2850. The EPA is also finalizing the definition of ''initial startup period'' and the requirements of 40 CFR 62.2850(c)(2) and (d)(2) to clarify that the end of the initial startup period occurs when the plant meets and maintains steady-state operations. Steady-state is defined as operating at or above 90 percent of the extractor nominal design production rate or at or above 90 percent of the production rate in the plant's permit for 15 consecutive days. Any initial startup period may not exceed 6 calendar months after startup for new or reconstructed sources or 3 calendar months after startup for modified sources.

As discussed in section IV.D of the June 27, 2019, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. We noted that our interpretation regarding CAA section 112 not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards has been upheld as reasonable by the Court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). The EPA further explained that, ''EPA will consider whether circumstances warrant setting standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions'' (84 FR 30827).

While we requested comment on work practice standards during periods of malfunction, and received some information in support of such standards, we did not receive sufficient information on which to base a malfunction standard. As further explained at proposal, ''[i]n the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventive and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable and was not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction). If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the Federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate'' (84 FR 30828).

For these reasons, we are not setting separate standards for periods of malfunction. Under the final rule, sources that experience an unscheduled shutdown as a result of a malfunction, continue to operate during a malfunction (including the period reasonably necessary to correct the malfunction), or start up after a shutdown resulting from a malfunction must instead meet the emission standard requirements for either a normal operating period or the work practice standards for an initial startup period (if a new or significantly modified source) in 40 CFR 63.2850 and Table 1 of 40 CFR 63.2850. Although we did not propose and are not finalizing work practice standards for periods of malfunction, we are finalizing revisions to deviation reporting to account for one-time malfunction events in which the potential solvent loss could result in a deviation for one or more consecutive monthly compliance ratio determinations. Specifically, we have revised the final rule to include a requirement that facilities flag and provide an explanation for any deviation from the compliance ratio for which a deviation report is being submitted for more than one consecutive month (*i.e.,* include a reference to the original date and reporting of the deviation). Although a facility would need to retain records of any deviation and the corrective action(s) performed, no additional corrective action would be required at the time the 12-month compliance ratio is officially exceeded in subsequent months if the facility demonstrates the exceedance is from a prior malfunction that has been corrected.

As is explained in more detail below, we are finalizing revisions related to requirements that apply during periods of SSM. We eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. Refer to sections III.C.1 through III.C.6 of this preamble for a detailed discussion of the final amendments.

1. 40 CFR 63.2840 General Duty

We are finalizing as proposed revisions to the General Provisions applicability table (Table 1 to 40 CFR 63.2870) entry for 40 CFR 63.6(e)(1)(i) by changing the ''Yes'' in column 4 to a ''No.'' The EPA is instead adding general duty regulatory text at 40 CFR 63.2840(g) to reflect the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The general duty to minimize emissions continues to apply during periods of malfunction and sources must still address malfunctions expeditiously in order to maintain any affected source, including associated air pollution control equipment and monitoring equipment, and minimize emissions. The EPA is also revising the General Provisions applicability table (Table 1 to 40 CFR 63.2870) entry for 40 CFR 63.6(e)(1)(ii) by changing the ''Yes'' in column 4 to a ''No'' to remove requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.2840(g).

2. SSM Plan

As proposed, the EPA is revising the General Provisions applicability table (Table 1 to 40 CFR 63.2870) entries for 40 CFR 63.6(e)(3)(i) through (e)(3)(ii), 40 CFR 63.6(e)(3)(v) through (vii), and 40 CFR 63.6(e)(3)(viii) and (ix) by changing the ''Yes'' in column 4 to a ''No.'' The EPA is also revising 40 CFR 63.2852, which cross-references the requirements of 40 CFR 63.6(e)(3). The final amendments remove requirements related to the SSM plan.

3. Compliance With Standards

The EPA is revising the General Provisions applicability table (Table 1 to 40 CFR 63.2870) entry for 40 CFR 63.6(f)(1) by revising the text in column 4 and removing the text in column 5 to clarify that the SSM exemption previously applied but will not apply going forward.

4. 40 CFR 63.2853 Performance Testing

We are also finalizing a revision to the performance testing requirements. The EPA is revising the General Provisions applicability table (Table 1 to 40 CFR 63.2870) entry for 40 CFR 63.7(e)(1) by changing the ''Yes'' in column 4 to a ''No,'' and adding a revised performance testing requirement at 40 CFR 63.2853(a)(5)(i)(A). The final performance testing provisions prohibit performance testing for purposes of demonstrating compliance during startup, shutdown, or malfunction because these conditions are not representative of normal operating periods. The final rule also requires that operators maintain records to document that operating conditions during the test represent normal operations.

5. 40 CFR 63.2862 Recordkeeping

The EPA is revising the General Provisions applicability table (Table 1 to 40 CFR 63.2870) entry for 40 CFR 63.10(b)(2)(i) by changing the ''Yes'' in column 4 to a ''No,'' and is adding recordkeeping requirements to 40 CFR 63.2862(f). The final revisions require owners or operators of sources subject to a work practice standard during initial startup times to report a description and dates of the initial startup period, the reason it qualifies as an initial startup period, an estimate of the solvent loss in gallons for the duration of the initial startup, and the nominal design rate and operating rate of the extractor or the permitted and actual production rates for the duration of the initial startup period. The final revisions also require facilities to record information including the measured temperature and pressure for desolventizing and oil distillation units; an indication that the mineral oil absorption system was operating at all times; and (3) an indication that the solvent condensers were operating at all times.

The EPA is revising the General Provisions applicability table (Table 1 to 40 CFR 63.2870) entry for 40 CFR 63.10(b)(2)(ii) by changing the ''Yes'' in column 4 to a ''No.'' The final rule includes recordkeeping requirements for malfunctions in 40 CFR 63.2862(g), including any ''failure to meet an applicable standard'' (including any deviation from the emissions standards of 40 CFR 63.2840 or the work practice standards for periods of initial startup). Source owners or operators must record the date and duration of the ''failure.'' We have revised the final rule requirements from proposal to clarify how to designate the date a deviation occurred and the duration of the deviation. For deviations from the compliance ratio, the date of the deviation is the date the compliance ratio determination is made, and the duration of the deviation is the length of time taken to address the cause of the deviation (including the duration of any malfunction) and to return the affected unit(s) to its normal or usual manner of operation. For deviations from the work practice standard during the initial startup period, the date of the deviation is the date when the facility fails to comply with any of the work practice standards in 40 CFR 63.2840(h), and the duration of the deviation is the length of time taken to return to the work practice standards. We have also removed the requirement to record and report the time of the deviation as described in section IV.C of this preamble.

The EPA is adding to 40 CFR 63.2862(g) a requirement that source owners or operators keep records that include a statement of the cause of each deviation (including unknown cause, if applicable), a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard when the standard is not met, and a description of the method used to estimate the emissions.

The EPA is revising the General Provisions applicability table (Table 1 to 40 CFR 63.2870) entry for 40 CFR 63.10(b)(2)(iv) and 40 CFR 63.10(b)(2)(v) by changing the ''Yes'' in column 4 to a ''No'' to remove requirements related to the SSM plan. The final rule includes a requirement to record actions to minimize emissions and record corrective actions in 40 CFR 63.2862(g).

6. 40 CFR 63.2861 Reporting

To replace the SSM reporting requirements, the EPA is eliminating the periodic SSM reports in 40 CFR 63.2861(c), which were required to be submitted at the end of each calendar month of an initial startup period or malfunction period. The EPA is also removing the requirement in 40 CFR 63.2861(d) to submit an immediate report for SSM when a source failed to meet an applicable standard but did not follow the SSM plan. The EPA is instead requiring that existing or new source owners or operators that fail to meet the applicable emission standards (including sources that experience a malfunction) or the work practice standards for initial startup periods at any time must report the information concerning such events in the deviation report, including the number, date, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of HAP emitted over the emission requirements of 40 CFR 63.2840, and a description of the method used to estimate the emissions. For sources operating under an initial startup period, the EPA is also finalizing a provision that source owners or operators that fail to meet the work practice standard must include a description of the deviation and include the records for the initial startup period in 40 CFR 63.2862(f).

Finally, the EPA is finalizing that source owners or operators that choose to operate under an initial startup period according to 40 CFR 63.2850(c)(2) or (d)(2) must also provide an initial startup report, including a compliance certification indicating whether the source was in compliance with the work practice standard of 40 CFR 63.2840(h). The initial report must be submitted within 30 days of the end of the initial startup period.

The legal rationale and detailed changes for SSM periods that we are finalizing here are set forth in the proposed rule (see 84 FR 30825). Section IV.C of this preamble provides a summary of key comments we received on the SSM provisions and our responses.

D. What other changes have been made to the NESHAP?

This rule also finalizes, as proposed, revisions to several other NESHAP requirements. To increase the ease and efficiency of data submittal and data accessibility, we are finalizing a requirement that owners and operators of facilities in the Solvent Extraction for Vegetable Oil Production source category submit electronic copies of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports through the EPA's CDX using the CEDRI. The initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports are required to be submitted according to the deadlines specified in 40 CFR 63.2861. We also are finalizing, as proposed, provisions that allow

facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility, *i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event in the time just prior to a report's due date, as well as the process to assert such a claim.

The EPA is finalizing several minor technical editorial changes to the rule. The EPA is finalizing several definitions in 40 CFR 63.2872 to harmonize with the removal of the SSM requirements and to clarify existing provisions. The definitions of ''Compliance ratio,'' ''Nonoperating period,'' ''Normal operating period,'' and ''Operating month'' are revised in the final rule to clarify that we have removed malfunction periods as a distinct source operating status during which no limits or work practices applied. The definition of ''Normal operating period'' is also revised to clarify that this definition also applies to ''normal operation.''

The EPA is revising the definition of ''Hazardous Air Pollutant (HAP)'' as proposed to remove the reference to the date of April 12, 2001. Finally, the EPA is adding a definition for ''Nonoperating month'' as proposed.

The EPA is finalizing minor revisions to 40 CFR 63.2840(a)(1) and (b)(1), 40 CFR 63.2853(a)(2), and 40 CFR 63.2855(a)(3) to remove text that is redundant with the definition of ''Operating month'' in 40 CFR 63.2872. Finally, the EPA is revising Table 1 of 40 CFR 63.2850 to correct a typographical error in row ''(a)'' for malfunction periods.

The legal rationale and detailed changes for these revisions are set forth in the proposed rule (see 84 FR 30830).

E. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on March 18, 2020.

Existing affected sources and affected sources that commenced construction or reconstruction on or before June 27, 2019, must comply with the amendments no later than 180 days after March 18, 2020. Affected sources that commence construction or reconstruction after June 27, 2019 must comply with all requirements of 40 CFR part 63, subpart GGGG, no later than the effective date of the final rule or upon startup, whichever is later. The EPA is finalizing three changes that would affect ongoing compliance requirements for the Solvent Extraction for Vegetable Oil Production NESHAP. First, for all sources, we are finalizing a requirement that initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test results be electronically submitted. Next, the EPA is finalizing changing the requirements for SSM by removing the exemption from the requirements to meet the standard during SSM periods. For new or significantly modified sources, we are finalizing an option for facilities to follow new work practice standards for periods of initial startup. From our assessment of the timeframe needed for implementing the entirety of the revised requirements, the EPA proposed a period of 180 days to be the most expeditious compliance period practicable for existing affected sources or affected sources that commenced construction or reconstruction on or before June 27, 2019. No comments on the compliance period were received during the public comment period and the 180-day period is being finalized as proposed. Thus, the compliance date of the final amendments for all existing sources and new sources that commenced construction or reconstruction on or before June 27, 2019, will be September 15, 2020. The compliance date of the final amendments for new sources that commence construction or reconstruction after June 27, 2019, will be March 18, 2020.

IV. What is the rationale for our final decisions and amendments for the Solvent Extraction for Vegetable Oil Production source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries, and the EPA's responses can be found in the comment summary and response document, *Summary of Public Comments and Responses for the Risk and Technology Review for Solvent Extraction For Vegetable Oil Production,* which is available in the docket for this rulemaking.

A. Residual Risk Review for the Solvent Extraction for Vegetable Oil Production Source Category

1. What did we propose pursuant to CAA section 112(f) for the Solvent Extraction for Vegetable Oil Production source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the June 27, 2019, proposed rule for 40 CFR part 63, subpart GGGG (84 FR 30812). The results of the risk assessment for the proposal are presented briefly in Table 2 of this preamble. More detail may be found in the residual risk technical support document, *Residual Risk Assessment for the Solvent Extraction for Vegetable Oil Production Source Category in Support of the 2019 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking.

TABLE 2—SOLVENT EXTRACTION FOR VEGETABLE OIL PRODUCTION INHALATION PROPOSED RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]	Estimated population at increased risk of cancer ≥1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [3]	Maximum screening acute noncancer HQ
88	Based on Actual Emissions Level				
	<1	0	0.00005	0.7 (n-hexane)	HQ_{REL} = 0.7 (acrolein)
	Based on Allowable Emissions Level				
	<1	0	0.0002	2 (n-hexane)	N/A

[1] Number of facilities evaluated in the risk analysis.

[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

[3] The target organ with the highest target organ-specific hazard index (TOSHI) for the Solvent Extraction for Vegetable Oil Production source category is the nervous system (neurocognitive and neurobehavioral effects).

The results of the proposed inhalation risk assessment using actual emissions data, as shown in Table 2 of this preamble, indicate the estimated cancer maximum individual risk (MIR) is less than 1-in-1 million. At proposal, the total estimated cancer incidence from this source category was estimated to be 0.00005 excess cancer cases per year, or 1 case every 20,000 years and for allowable emissions was 0.0002 excess cancer cases per year, or 1 case every 5,000 years driven by emissions of acetaldehyde and formaldehyde. At proposal, the maximum modeled chronic noncancer TOSHI for the source category based on actual emissions was estimated to be 0.7 and, for allowable emissions, was estimated to be 2 due to emissions of n-hexane. Approximately 13 people were estimated to have exposures resulting in a TOSHI greater than 1 if exposed to allowable emissions from this source category.

As shown in Table 2 of this preamble, the worst-case acute hazard quotient (HQ) (based on the reference exposure level (REL)) at proposal was less than 1 (0.7 based on the REL for acrolein). This value is the highest HQ that is outside facility boundaries. The multipathway risk screening assessment did not identify emissions of any HAP known to be persistent and bio-accumulative in the environment; therefore, no further evaluation of multipathway risk was conducted for this source category. Further, because we did not identify environmental HAP emissions, no quantitative environmental risk screening was conducted for this source category.

We conducted an assessment of facility-wide risks. The maximum lifetime individual cancer risk posed by the 88 facilities, based on facility-wide emissions at proposal, was 5-in-1 million with cadmium, nickel, arsenic, chromium (VI), and formaldehyde emissions from facility-wide external combustion boilers driving the risk. The maximum chronic noncancer TOSHI posed by facility-wide emissions was estimated to be 0.7 (for the nervous system) driven by source category n-hexane emissions.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the risks from the Solvent Extraction for Vegetable Oil Production source category are acceptable (section IV.C.1 of proposal preamble, 84 FR 30812, June 27, 2019).

We then considered whether the existing MACT standards for this source category provide an ample margin of safety to protect public health and whether, taking into consideration costs, energy, safety, and other relevant factors, standards are required to prevent an adverse environmental effect. In considering whether standards are required to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. We proposed that the current standards provide an ample margin of safety to protect public health and revision of the standards for the Solvent Extraction for Vegetable Oil Production source category are not required to provide an ample margin of safety to protect public health. We also proposed that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect (see section IV.B of proposal preamble, 84 FR 30812, June 27, 2019.)

2. How did the risk review change for the Solvent Extraction For Vegetable Oil Production source category?

We have not changed any aspect of the risk assessment since the June 27, 2019, RTR proposal for the Solvent Extraction for Vegetable Oil Production source category. We received several comments indicating that the risk assessment (1) Improperly included emissions of acetaldehyde that are not associated with the Solvent Extraction for Vegetable Oil Production source category, but are emitted from other facility processes; (2) overestimated actual emissions for certain facilities where the EPA assumed that reported volatile organic compound (VOC) emissions were n-hexane; and (3) overestimated allowable emissions for the source category based on the assumptions used to develop the MACT allowable-to-actual emissions multiplier.

As discussed in section IV.A.3 of this preamble, the inputs and assumptions in the risk assessment at proposal are likely to overestimate the risks from the Solvent Extraction for Vegetable Oil Production source category. However, the risks as modeled at proposal indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are less than 1-in-1 million, well below the presumptive limit of acceptability of 100-in-1 million. The maximum chronic noncancer TOSHI due to inhalation exposures is less than 1 for actual emissions, and 2 for MACT-allowable emissions with an estimated 13 people exposed to a TOSHI greater than 1. Although for MACT-allowable emissions, the maximum chronic noncancer TOSHI due to inhalation exposures is 2, we note that due to the inherent health protective nature of our risk assessment methods and the uncertainties in this assessment (*i.e.,* the emissions dataset, dispersion modeling, and exposure estimates), our risk estimates are conservative. For example, risk estimates for allowable emissions were based on scaled-up actual emissions. At the first facility with a TOSHI value greater than 1, allowable emissions are based on permit data. At the other facility, allowable emissions are based on an allowable multiplier applied to actual emissions.

Additionally, the results of the acute screening analysis showed that acute risks were below a level of concern. Because the risk assessment already shows risks from the source category are acceptable and that the existing standards provide an ample margin of safety to protect public health, revision of the risk assessment to address the comments that our emission estimates were too high would not change the EPA's finding that the risks from the Solvent Extraction for Vegetable Oil Production source category are acceptable.

3. What key comments did we receive on the risk review, and what are our responses?

We received comments in support of and opposed to our proposed risk assessment and determination that no revisions to the standards are warranted under CAA section 112(f)(2) for the Solvent Extraction for Vegetable Oil Production source category. Generally, the comments that were not supportive of the acceptability and ample margin of safety determinations suggested changes to the underlying risk assessment methodology. The suggested changes to the EPA's risk assessment methodology included that the EPA should lower its presumptive limit of acceptability for cancer risks to below 100-in-1 million, include emissions outside of the source categories in question in the risk assessment, and assume that pollutants with noncancer health effects have no safe level of exposure. Other commenters asserted that the methodology for developing modeling inputs overestimated the actual or allowable emissions of certain pollutants from specific facilities, and subsequently overstated the risks from the source category. We evaluated all comments and determined that no

changes regarding our risk review were needed. These comments and our specific responses can be found below and in the comment summary and response document titled *Summary of Public Comments and Responses for the Risk and Technology Review for Solvent Extraction for Vegetable Oil Production,* which is available in the docket for this action.

Comment: One commenter stated that the acetaldehyde emissions that were modeled for the ADM-Clinton facility were not associated with the vegetable oil process and should not have been included in the source category modeling file. The commenter stated that the EPA should correct the risk assessment by removing acetaldehyde for the ADM-Clinton facility.

Response: As noted at proposal, we included acetaldehyde emissions in the modeling file for the source category with the understanding that their inclusion in the assessment would result in a conservative estimate of risk. We acknowledge that a reassessment of risk that excludes acetaldehyde emissions from the facility would result in lower facility emissions, and potentially lower the source category risks associated with acetaldehyde. Therefore, because revising the assessment by removing acetaldehyde emissions from the source category modeling file would not change the outcome of our risk determination, we are not undertaking further analysis. We note that the acetaldehyde emissions would continue to be considered as part of the facility-wide risk assessment (see 84 FR 30824) and whole facility risks.

Comment: One commenter stated that the EPA overestimated actual emissions for nine facilities where the EPA assumed that 100 percent of the reported VOC emissions were emitted as n-hexane. The commenter stated that although the EPA did not identify the nine facilities, the commenter's review indicated that actual emissions in the modeling file for several sources significantly exceeded the actual 2014 emissions of n-hexane. The commenter stated that the EPA should identify the extent to which the reported HI (0.7) may be affected by this assumption. The commenter also stated that the EPA overestimated the allowable-to-actual ratio used to estimate allowable emissions for multiple facilities. The commenter asserted that although the EPA did not identify the facilities that were used to estimate an allowable-to-actual ratio, they believe, based on a review of the data, that the EPA overestimated the allowable-to-actual ratio by incorrectly assuming that n-hexane emissions were equal to total solvent (VOC) loss or by not accounting for the volume fraction of n-hexane in solvent.

Response: As noted at proposal (84 FR 30818), the EPA assumed for certain facilities that all solvent loss reported as VOC is emitted as n-hexane. We adopted this approach where data for facility hexane emissions were unavailable or lacking, recognizing that this approach would provide the most conservative estimate of risk. Additionally, the MACT allowable emissions multiplier conservatively assumed that all loss of n-hexane in the solvent extraction process is emitted to the atmosphere (84 FR 30819). The proposed approach was adopted taking into consideration that the volume fraction of n-hexane may vary significantly within a solvent (the solvent used in vegetable oil production facilities is 100-percent VOC and may range from less than 1 percent to 88-percent n-hexane). Where emissions of n-hexane or the volume fraction of n-hexane were not readily available from permit materials, we conservatively assumed all solvent loss is n-hexane. Therefore, the risk assessment does likely overestimate the actual and allowable emissions for certain facilities; as noted at proposal, these conservative assumptions were adopted to account for the potential ''worst-case'' risks given that we lacked complete information on the n-hexane emissions for specific facilities. Although we acknowledge that the source category risks would be lower with the adjustments requested by the commenters, revision of the actual emissions or MACT-allowable emissions in the modeling file would not change the EPA's conclusions regarding risk.

Comment: One commenter objected to the EPA's methodology for the acute risk assessment. The commenter stated that the risk assessment is weakened because the EPA used ''reasonable worst-case'' conditions. The commenter stated that after recognizing the need to evaluate the worst-case set of conditions, it is inherently contradictory and circular for the EPA to decide to ignore the impacts by deciding that the worst-case is not actually ''reasonable.'' Another commenter stated the assessment of risks for acute exposure is conservative. It assumes that estimated 1-hour peak emissions occur at the same time as the ''reasonable worst-case'' meteorological conditions and that an individual will be exposed at this time and under these conditions at the location of the maximum predicted impact.

Response: The EPA disagrees that our Acute Screening-Level Assessment should not be based on ''reasonable worst-case'' meteorological conditions. In developing an acute exposure scenario, we estimate 1-hour exposure concentrations through air dispersion modeling during hours of peak emissions. However, hourly emissions data are not typically available, and the exact hours of peak emissions are often unknown, making it difficult to determine the meteorological conditions to model with the peak emissions. We make assumptions about when peak hourly emissions occur. In a worst-case scenario, peak hourly emissions would occur during the 1 hour of the year with the worst-case air dispersion conditions (*i.e.,* low, continuous wind speeds blowing in a specific direction). However, the probability of peak hourly emissions occurring in the same hour as the worst-case air dispersion conditions is extremely low. For example, as documented in Appendix 5 of the *Residual Risk Assessment for the Solvent Extraction for Vegetable Oil Production Source Category in Support of the 2019 Risk and Technology Review Final Rule,* available in the docket for this rulemaking, conservatively the probability of these two events occurring simultaneously is about 1-in-200,000 (or a 0.0005 percent chance). Instead, we use ''reasonable worst-case'' meteorological conditions. This approach strikes a balance of being health protective without overestimating acute exposures and has a reasonable probability of occurrence (conservatively, an 88-in-200,000 chance or 0.044 percent). Using the ''reasonable worst-case'' meteorological conditions, the scenario we modeled is a rare event (peak emissions would have a 0.044% chance of occuring during the same hour as the ''reasonable worst-case'' meteorology based on conservative assumptions, or a 99.956% chance of not occuring during that hour) rather than a scenario that is extremely unlikely (peak emissions would have a 0.0005% chance of occuring during the same hour as the worst-case meteorology, or a 99.9995% chance of not occuring during that hour).

After review of all the comments received, we determined that no changes to the risk assessment were necessary. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for the Solvent Extraction for Vegetable Oil Production Source Category,* available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of ''approximately 1-in-10 thousand'' (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, and adverse environmental effects have changed. For the reasons explained in the proposed rule, we determined that the risks from the Solvent Extraction for Vegetable Oil Production source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, we are not revising the standards for this source category pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).

B. Technology Review for the Solvent Extraction for Vegetable Oil Production Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Solvent Extraction for Vegetable Oil Production source category?

Pursuant to CAA section 112(d)(6), we proposed to conclude that no revisions to the current MACT standards for this source category are necessary for control of n-hexane emissions from vegetable oil production facilities (sections IV.C of proposal preamble, 84 FR 30825). We did not find any developments in practices, processes, and control technologies that could be applied to solvent extraction for vegetable oil process vents and that could be used to reduce emissions from solvent extraction for vegetable oil production facilities. We also did not identify any developments in work practices, pollution prevention techniques, or process changes that could achieve emission reductions from solvent extraction for vegetable oil process vents. We identified for consideration the use of a cryogenic condenser after the main vent as an add-on control option, based on a review of best available control technology analyses where such controls were previously considered. However, based on the costs and emission reductions for the proposed options, we did not find the use of a cryogenic condenser as cost effective for reducing emissions from these emission sources at solvent extraction for vegetable oil production units; and we proposed that it is not necessary to revise the MACT standards for these emission sources pursuant to CAA section 112(d)(6). Additional details of our technology review can be found in the memorandum, *CAA Section 112(d)(6) Technology Review for the Solvent Extraction for Vegetable Oil Production Source Category,* which is available in the docket for this action.

2. How did the technology review change for the Solvent Extraction for Vegetable Oil Production source category?

We have not changed any aspect of the technology review since the June 27, 2019, RTR proposal for the Solvent Extraction for Vegetable Oil Production source category.

3. What key comments did we receive on the technology review, and what are our responses?

We received comments in support of and opposed to the proposed determination from the technology review that no revisions were warranted under CAA section 112(d)(6). We evaluated the comments and determined that no changes regarding our determination were needed. These comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Risk and Technology Review for Solvent Extraction for Vegetable Oil Production,* which is available in the docket for this action.

4. What is the rationale for our final approach for the technology review?

We evaluated all of the comments on the EPA's technology review and determined that no changes to the review are needed. For the reasons explained in the proposed rule, we determined that no cost-effective developments in practices, processes, or control technologies were identified in our technology review to warrant revisions to the standards. More information concerning our technology review, and how we evaluate cost effectiveness, can be found in the memorandum titled *CAA Section 112(d)(6) Technology Review for the Solvent Extraction for Vegetable Oil Production Source Category,* which is available in the docket for this action, and in the preamble to the proposed rule (84 FR 30825). Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed.

C. SSM for the Solvent Extraction for Vegetable Oil Production Source Category

1. What amendments did we propose to address emissions during periods of SSM?

We proposed removing and revising provisions related to SSM that are not consistent with the requirement that standards apply at all times. We proposed that the emission standards for normal operation apply at all times, except for periods of initial startup, for new or significantly modified sources as described below. We proposed alternate standards for initial startup periods for new or significantly modified sources. Specifically, we proposed that new or significantly modified facilities operating in an initial startup period would operate the mineral oil absorption system and solvent condensers at all times during the initial startup period. We also proposed that facilities establish and follow site-specific operating ranges for temperature and vacuum for the desolventizing and oil distillation units associated with solvent recovery. New and significantly modified facilities would also continue to have the option to meet the requirements for normal operating periods in Table 1 of 40 CFR 63.2850, in lieu of the work practice standards. We also proposed to revise the definition of ''Initial startup period'' to clarify the time at which an initial startup period ends and a normal operating period begins.

We proposed to remove malfunction periods as a distinct source operating status, which previously allowed sources to exclude data collected during the ''malfunction period'' when determining compliance with the emission standards. Under the proposed rule, sources that experience an unscheduled shutdown as a result of a malfunction, continue to operate during a malfunction (including the period reasonably necessary to correct the malfunction), or start up after a shutdown resulting from a malfunction must instead meet the emission standard requirements for either a

normal operating period or the work practice standards for an initial startup period (if applicable) in 40 CFR 63.2850 and Table 1 of 40 CFR 63.2850. We also proposed to remove reference to SSM exemptions from the general duty requirements,[3] to remove SSM plans, to remove references to SSM exemptions in requirements related to compliance with the standards and performance testing, and to revise recordkeeping and reporting requirements that are not consistent with the requirement that standards apply at all times. More information concerning our proposal on SSM can be found in the proposed rule (84 FR 30825, June 27, 2019).

2. How did the SSM provisions change since proposal?

We are finalizing the SSM provisions as proposed, except for minor clarifications. We are finalizing the proposed alternate work practice standards for initial startup periods for new or significantly modified sources, and we are finalizing our proposal to remove malfunction periods as a source operating status, which previously allowed sources to exclude data collected during the ''malfunction period'' when calculating their compliance ratio according to 40 CFR 63.2840. We are finalizing the removal and revision of SSM requirements related to general duty, SSM plans, compliance with the standards, and performance testing as proposed (84 FR 30825). We are revising the recordkeeping requirements at 40 CFR 63.2862 and the reporting requirements at 40 CFR 63.2861 as proposed, with the exception of minor revisions to clarify how to designate the date a deviation occurred and the duration of the deviation. For deviations from the compliance ratio for facilities operating under a normal operating period, the date of the deviation is the date the compliance ratio determination is made, and the duration of the deviation is the length of time taken to address the cause of the deviation (including the duration of any malfunction) and to return the affected unit(s) to its normal or usual manner of operation. For deviations from the work practice standard for facilities operating under an initial startup period, the date of the deviation is the date when the facility fails to comply with any of the work practice standards in 40 CFR 63.2840(h), and the duration of the deviation is the length of time taken to return to the work practice standards. We have also removed the requirement to record and report the time of day the deviation occurred, since deviations from the compliance ratio are determined at the end of the period.

3. What key comments did we receive on the SSM revisions and what are our responses?

We received one comment supporting our proposed removal of the exemption in the regulations for emissions during SSM periods. We received two comments supporting our proposal to establish an option to follow a work practice standard during initial startup periods for new or significantly modified sources, and did not receive any comments opposing the proposed work practice standards during initial startup periods. We received additional comments requesting that startup or shutdown periods be taken into account when setting the MACT standard. We received comments both for and against the proposed removal of ''malfunction periods'' as a distinct source operating status. We also received comments requesting clarification on the recordkeeping and reporting requirements for the date, time, and duration of a deviation. We evaluated all comments and determined that no changes to the proposed alternate work practice standards for initial startup periods for new or significantly modified sources; no changes to the proposed removal of requirements that allowed sources to designate the operating status as a distinct ''malfunction periods'' (facilities must instead meet the requirements of normal operation or initial startup); and no changes to the proposed removal or revision of provisions related to SSM are required, with the exception of minor clarifications as discussed in this section.

Comment: Two commenters stated that the EPA should take periods of startup and shutdown into account when setting the MACT emissions standards. The commenters stated that if the EPA is removing the exemption of startup and shutdown emissions from the calculation of the compliance ratio, the EPA should recalculate the MACT emission limits based on normal operation plus periods of startup and shutdown. The commenters stated that the EPA has indicated the current NESHAP provides an ample margin of safety to protect public health, and that this indicates there is ample room to increase the MACT limits to more appropriate levels that include the startup and shutdown operations. Another commenter stated that the proposed elimination of relief for SSM events is not required for the rule to be consistent with *Sierra Club* v. *EPA.* The commenter asserted that other court opinions have emphasized the need for standards to accommodate higher emission levels that occur at times other than normal operations.

Response: We do not agree that the MACT emission limits should be recalculated to include periods of startup and shutdown. We disagree with the commenter's suggestion that the legal precedent established in case law (*i.e., Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008)) is not relevant. The *Sierra Club* decision held that emissions limitations under CAA section 112 must apply continuously and meet minimum stringency requirements, even during periods of SSM. Consistent with *Sierra Club* v. *EPA,* for the reasons explained in the proposal preamble at 83 FR 30285, we are finalizing our proposal to eliminate the SSM language in 40 CFR part 63, subpart GGGG. Subpart GGGG had both rule-specific SSM language and references to SSM language in the part 63 General Provisions in Table 1 of 63.2870, specifically reference to 40 CFR 63.6(f)(1). As we explained in the proposal, our SSM-related rule revisions are in response to the *Sierra Club* Court's vacatur of the SSM exemption in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1). When incorporated into CAA section 112(d) regulations for specific source categories, these two provisions exempted sources from the requirement to comply with otherwise applicable MACT standards during periods of SSM. The Court's vacatur rendered those provisions null and void prior to this rulemaking. The mandate implementing the Court's decision was issued on October 16, 2009, at which time the vacated SSM provision 40 CFR 63.6(f)(1) referenced by subpart GGGG was no longer in effect. Eliminating reference to this provision, and other related General Provisions referenced in subpart GGGG, is a ministerial action by the EPA to reflect the vacatur by the Court. We also eliminated the rule-specific SSM provisions in subpart GGGG. The final standards will apply at all times, consistent with the *Sierra Club* decision.

As an alternative approach consistent with *Sierra Club,* the EPA may designate different standards to apply during startup and shutdown (as noted in the proposal, the EPA is not obligated to set standards for periods of malfunction). For this category, the compliance approaches required by state regulatory authorities led us to decide special startup/shutdown standards were unnecessary for existing sources. Based

[3] We proposed to add general duty regulatory text at 40 CFR 63.2840(g) to reflect the general duty to minimize emissions, while eliminating the reference to periods covered by an SSM exemption (see 84 FR 30828).

on discussions with industry, there are not significant differences in the production process or operation of solvent recovery equipment during startup or shutdown of an existing facility that would preclude the facility from complying with the existing standards. A review of title V permits identified that approximately 35 percent of existing facilities are already required to account for periods of routine startup (not initial startup) and shutdown in determining their compliance ratio. This requirement was found commonly across states and regions, indicating that existing sources operating during periods of routine startup and shutdown are able to demonstrate compliance with the emission standards. Furthermore, the commenter did not provide any evidence that emissions during routine startup and shutdown vary considerably from normal operation. Consequently, the final rule's elimination of periods of startup and shutdown for existing sources reflects this capability.

For the reasons explained in the proposal preamble, we are finalizing alternate standards for periods of initial startup for new or significantly modified sources. Because the initial startup period reflects a non-steady state of production, emissions testing during this period would not likely be representative or yield meaningful results for the establishment of separate emission limits. As discussed at proposal, control of n-hexane emissions at vegetable oil production facilities is accomplished through solvent recovery and is based on inter-related process equipment that is often custom built to the specific configuration and needs of the plant. During an initial startup period, facility equipment is tested, added, or replaced as the facility gradually increases production, and emissions during this period may reflect variability that is not generally reflective of normal or steady-state operations. New and modified equipment is often brought online in a phased approach, and each phase can necessitate adjustments in both new and existing equipment in the process in order to identify and correct problems, such as equipment that is not operating as designed and that requires repair or replacement. The EPA evaluated the available data for new or significantly modified sources to establish potential standards for periods of initial startup, including review of operating permits from various state and local agencies and EPA Regional offices. We noted that the standards have not previously required—and state, local, and Regional offices have not collected—emissions data for these facilities during their initial startup periods. Further, where the EPA identified a recently constructed facility with permitted MACT allowable solvent loss for an initial startup period, we determined that the allowable solvent loss for the facility was not based on measured data, and would not be representative of initial startup periods for other facilities in the source category. Although we requested information on emissions and the operation of processes during initial startup periods, we did not receive sufficient information, including additional quantitative emissions data, on which to base a numeric standard for initial startup periods at new or significantly modified facilities. The EPA recognizes that the initial startup period, which is a one-time event for new sources and an infrequent event for significantly modified sources, is not a typical startup period that may occur as part of routine or seasonal startups of a plant. Instead, the initial startup period includes evaluation and replacement of new equipment as each phase is brought online and production is gradually increased. Therefore, emissions testing during initial startup would be both economically and technically infeasible. Consequently, the EPA is finalizing a work practice standard rather than an emissions limit for this period.

Notwithstanding the finding that the MACT-based limits of the initial NESHAP provide and ample margin of safety, the EPA lacks the authority to relax limits developed in the MACT process based on finding that the limits provide an ample margin of safety. Were the EPA to do so, then the limits would not meet the strict structure of MACT. The risk-based limits under CAA section 112(f)(2) were intended to augment MACT when the post-MACT risks did not provide an ample margin of safety to protect public health. There is no indication in the statute that the risk-based standards were intended to revoke the requirements to have MACT standards. A risk-based standard is only required when the MACT-based does not sufficiently reduce risk (see CAA section 112(f)(2)(A)).

Additionally, the EPA's finding is that the existing MACT-based standard does not need to be made more stringent to comply with CAA section 112(f)(2) (*i.e.,* to provide an ample margin of safety). The EPA has not made a finding that the existing standards somehow exceed an ample margin of safety. There is no finding that there is ''room to increase'' the limits while also complying with the requirement to provide an ample margin of safety required by CAA section 112(f)(2).

Comment: One commenter asserted that it would be arbitrary and capricious for the EPA to ignore the existence of malfunctions even at best-performing sources, or to assume that the best-performing sources achieve emission levels that they do not achieve part of the time. The commenter urged that if the EPA adopts MACT standards that it recognizes even the best-performing existing sources cannot achieve part of the time, the EPA would be going beyond the MACT floor. Three commenters stated that the EPA should take malfunctions into account when adopting emissions standards. One commenter stated that it is not apparent from the proposed rule why the EPA believes it needs to remove the current provisions related to malfunctions. The commenter asserted that the EPA cannot change its position and withdraw a previously promulgated provision without providing a full explanation of the reason(s) for the change. The same commenter recommended that the EPA could instead establish numerical emission limitations that have an averaging time of sufficient duration that short, infrequent spikes in emissions due to malfunctions would not cause the source to exceed the emission limitation. Alternatively, the commenter recommended that the EPA could promulgate design, equipment, work practice, or operational standards in lieu of a numerical standard. Two commenters stated that the EPA should maintain an option in 40 CFR 63.2850(e)(2) either to meet the requirements applicable to normal operating periods or to meet the requirements for malfunction periods. These commenters urged that otherwise there could be unavoidable exceedances of the standards. The two commenters recommended that the EPA could adopt similar work practice standards for malfunction periods as proposed for initial startup periods. Another commenter suggested work practices such as monitoring of operating parameters to identify a malfunction and stopping or cutting back the process. One commenter supported the removal of the malfunction exemptions, stating there is no lawful or rational justification for creating non-numerical work practice standards during malfunctions.

Response: We disagree with the commenters' assertions that we must set revised or separate standards for periods of malfunction. As discussed in the preamble to the proposed rule, as the Court recognized in *U.S. Sugar Corp,* accounting for malfunctions in setting standards would be difficult, if not

impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. Id. at 608 (''the EPA would have to conceive of a standard that could apply equally to the wide range of possible [ ] malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances.''). As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.'''). See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

As noted at proposal, the EPA considers whether circumstances warrant setting standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions. The EPA has also considered the need for a work practice for periods of malfunction for vegetable oil production facilities. Although we requested information on emissions and the operation of processes during malfunction periods in our consultations with state agencies and industry, we did not receive sufficient information for development of proposed standards. Therefore, as part of the proposal, the EPA solicited information on the type of events that constitute a malfunction event, industry best practices, and the best level of emission control during malfunction events. The EPA also requested commenters provide information on the costs associated with any recommended work practices. In addition, the EPA solicited specific supporting data on HAP emissions during malfunction events, including the cause of malfunction, the frequency of malfunction, duration of malfunction, and the estimate of HAP emitted during each malfunction. In this case, although we requested comment and information to support the development of a standard during periods of malfunction, we did not receive sufficient information, including additional quantitative emissions data, on which to base a standard. Absent sufficient information, it is not reasonable at this time to establish a work practice standard for periods of malfunction for this source category. For these reasons, we are not setting separate standards for periods of malfunction. Under the final rule, sources that experience an unscheduled shutdown as a result of a malfunction, continue to operate during a malfunction (including the period reasonably necessary to correct the malfunction), or start up after a shutdown resulting from a malfunction must instead meet the emission standard requirements for either a normal operating period or the work practice standards for an initial startup period (if a new or significantly modified source) in 40 CFR 63.2850 and Table 1 of 40 CFR 63.2850. We note that sources must still meet the general duty requirements in 40 CFR 63.2840(g) and should address malfunctions expeditiously in order to maintain any affected source, including associated air pollution control equipment and monitoring equipment, and minimize emissions.

Nevertheless, the EPA acknowledges that including solvent loss from a one-time event (like a malfunction) in the 12-month compliance ratio could cause a deviation for one or more monthly compliance ratio determinations, and would remain in the rolling compliance determination for up to 1 year (12 months). We also recognize that it is possible that a malfunction that causes a 12-month compliance ratio to be exceeded might have been corrected well before the first full 12-months have passed. Although a facility would need to retain records of any deviation and the corrective action(s) performed, no additional corrective action would be required at the time the 12-month compliance ratio is officially exceeded in subsequent months if the facility demonstrates the exceedance is from a prior malfunction that has been corrected. Facilities would be able to provide such an explanation in their deviation reports; specifically, we have revised the deviation reporting requirements in the final rule to include a requirement that facilities flag and provide an explanation for any deviation from the compliance ratio for which a deviation report is being submitted for more than 1 consecutive month (*i.e.,* include a reference to the original date and reporting of the deviation) (see 40 CFR 63.2861(b)). Further, as discussed below in this section, we have clarified that the duration of the deviation from the compliance ratio is the length of time taken to address the cause of the deviation (including the duration of any malfunction) and to return the affected unit(s) to its normal or usual manner of operation. Therefore, facilities must retain records of the date and duration of the malfunction, as well as the corrective action(s) performed, to demonstrate the basis for the deviation in subsequent periods.

As further explained at proposal, ''[i]n the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventive and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact,

sudden, infrequent, not reasonably preventable and was not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction). If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate'' (84 FR 30828).

Comment: We received one comment requesting clarification on the revised reporting and recordkeeping requirements for deviations. The commenter requested that the EPA clarify how a facility should designate the date a deviation occurred. The commenter recommended that because there is a single compliance ratio determination for an operating month, the rule should specify that a deviation be reported as occurring on the date the compliance ratio determination is made. The commenter also requested clarification on the duration of a deviation, noting that solvent loss from a one-time event (like a malfunction) could cause a deviation for one or more monthly compliance ratio determinations. The commenter stated it is unreasonable to require facilities to report events that may last only 1 day as having a duration of 30 days or even longer, and asked the EPA to clarify if the deviation reporting requirements only apply to work practice standards. Finally, the commenter stated the reporting template should not require facilities to report the time of a deviation; the commenter urged that the time of day a deviation occurs is not needed to determine compliance with the standards.

Response: We agree with the commenter and have revised the reporting and recordkeeping requirements for deviations for clarification. Specifically, we have revised the recordkeeping requirements of 40 CFR 63.2862(g)(1) to clarify that for deviations from the compliance ratio, the date of the deviation is the date the compliance ratio determination is made. For deviations from the work practice standard during the initial startup period, the date of the deviation is the date when the facility fails to comply with any of the work practice standard in 40 CFR 63.2840(h) (*e.g.,* if the facility fails to operate the mineral oil absorption system or the solvent condenser at all times during the initial startup period, or fails to meet the site-specific operating limits established by the facility). These dates must be reported in the deviation notification report according to the final rule requirements at 40 CFR 63.2861(b)(5). We have revised 40 CFR 63.2862(g)(1) to clarify that for deviations from the compliance ratio, the duration of the deviation is the length of time taken to address the cause of the deviation (including the duration of any malfunction) and to return the affected unit(s) to its normal or usual manner of operation. For deviations from the work practice standard during the initial startup period, the duration of the deviation is the length of time taken to return to the work practice standards. The final rule requirements are consistent with the prior requirements of 40 CFR 63.10(b)(2)(ii) to retain a record of the ''occurrence and duration of each malfunction'' and are necessary to allow the EPA to determine the severity of any failure to meet a standard. Finally, we have revised the final rule requirements to remove the requirement to record or report the time of a deviation, as this information is not necessary to determine compliance with the standard.

Additional comments on the SSM provisions and our specific responses to those comments can be found in the document titled *Summary of Public Comments and Responses for the Risk and Technology Review for Solvent Extraction for Vegetable Oil Production,* which is available in the docket for this action.

4. What is the rationale for our final approach and final decisions to address emissions during periods of SSM?

We evaluated all the comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule (84 FR 30812), we determined that these amendments appropriately remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. Therefore, we are finalizing the amendments to remove and revise provisions related to SSM, as proposed, with the exception of the clarifications discussed in this section.

D. Technical Amendments to the MACT Standards for the Solvent Extraction for Vegetable Oil Production Source Category

1. What other amendments did we propose for the Solvent Extraction for Vegetable Oil Production source category?

We proposed that owners and operators submit electronic copies of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports through the EPA's CDX using the CEDRI. For initial notifications, initial startup reports, annual compliance certifications, and deviation reports, the proposed rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. We also proposed two broad circumstances in which we may provide extension to these requirements. We proposed at 40 CFR 63.2862(f) that an extension may be warranted due to outages of the EPA's CDX or CEDRI that precludes an owner or operator from accessing the system and submitting required reports. We also proposed at 40 CFR 63.2862(g) that an extension may be warranted due to a *force majeure* event, such as an act of nature, act of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

We proposed revisions to several definitions in 40 CFR 63.2872 to harmonize with the proposed removal of the SSM requirements and to clarify existing provisions, include revisions to definitions of ''Compliance ratio,'' ''Nonoperating period,'' ''Normal operating period,'' and ''Operating month'' to clarify where the malfunction period is excluded, and to the definition of ''Normal operating period'' to clarify that this definition also applies to ''normal operation.'' We also proposed to add a definition for ''Nonoperating month.'' We proposed to revise the definition of ''Hazardous air pollutant (HAP)'' to remove the reference to the date of April 12, 2001.

We proposed minor revisions to 40 CFR 63.2840(a)(1) and (b)(1), 40 CFR 63.2853(a)(2), and 40 CFR 63.2855(a)(3) to remove text that is redundant with the definition of ''Operating month'' in 40 CFR 63.2872. We also proposed a minor correction to Table 1 of 63.2850 to correct a typographical error in row ''(a)'' for malfunction periods.

2. How did the other amendments for the Solvent Extraction for Vegetable Oil Production source category change since proposal?

There are no changes to the proposed requirements for owners and operators to submit electronic copies of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports electronically. We also are finalizing, as proposed, the provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility. There are no changes to the proposed definitions in 40 CFR 63.2872, or the minor revisions to 40 CFR 63.2840(a)(1) and (b)(1), 40 CFR 63.2853(a)(2), 40 CFR 63.2855(a)(3), or Table 1 of 40 CFR 63.2850.

3. What key comments did we receive on the other amendments for the Solvent Extraction for Vegetable Oil Production source category and what are our responses?

We received one comment providing input on the proposed requirement for owners and operators of vegetable oil production facilities to submit electronic copies of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports. The commenter stated that the EPA may not lawfully or rationally finalize ''exemption provisions'' based on CEDRI outages or ''*force majeure* events.'' The commenter stated the provisions do not set a firm deadline to request an extension of the reporting deadline. No commenters provided significant comments on the proposed definitions in 40 CFR 63.2872, or the proposed minor revisions to 40 CFR 63.2840(a)(1) and (b)(1), 40 CFR 63.2853(a)(2), 40 CFR 63.2855(a)(3), or Table 1 of 40 CFR 63.2850.

Comment: One commenter stated that the EPA must not finalize the proposed electronic reporting extension provisions because the definition of a force majeure event is too broad, the provisions do not set a firm deadline to request an extension of the reporting deadline, and the decision to allow an extension is solely within the discretion of the Administrator. The commenter urged that the proposed provisions are unlawful and arbitrary because they would create a broad and vague mechanism that a facility owner or operator could use to evade binding emission standards, by evading the binding compliance reporting deadlines set to assure compliance with those standards. The commenter further stated that the EPA should not import the concept of ''force majeure'' into any part of the CAA, as to do so is a variation of the prior malfunction exemptions that are unlawful under the CAA. The commenter also noted that the EPA has provided that there are no known issues with submission of ERT-formatted performance test and evaluation reports in CEDRI (per the Petroleum Refinery NESHAP), thus, there is no rational basis for providing the proposing reporting extensions. At a minimum, the commenter requested that the EPA set a new firm deadline to assure that the extension request allows only a temporary period when the facility need not report, such as a 10-day extension, rather than an open-ended extension without a deadline.

Response: The commenter states that the brief case-by-case extension of report submittal deadlines is a ''reporting exemption.'' This is not the case. The proposed provisions the commenter questions are in paragraphs 40 CFR 63.2861(h) and (i).

There is no exception or exemption to reporting, much less an exemption from compliance with the numerical emission standards, only a method for requesting an extension of the reporting deadline. Reporters are required to justify their request and identify a reporting date. There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator (*i.e.,* the EPA Administrator or delegated authority as defined in 40 CFR 63.2) when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a Hurricane Katrina scale event may delay electronic reporting much longer, especially if the facility has no power, and as such, the owner or operator has no ability to access electronically stored data or to submit reports electronically. The Administrator will be the most knowledgeable of the events leading to the request for extension and will assess whether an extension is appropriate, and if so, a reasonable length for the extension. The Administrator may even request that the report be sent in hardcopy until electronic reporting can be resumed. While no new fixed duration deadline is set, the regulation requires that the report be submitted electronically as soon as possible after the CEDRI outage or after the force majeure event resolves.

The concept of force majeure has been implemented by the EPA in this context since May 2007 within the CAA requirements through the performance test extensions provided in 40 CFR 63.7(a)(4) and 60.8(a)(1). Like the performance test extensions, the approval of a requested extension of an electronic reporting deadline is at the discretion of the Administrator.

The EPA disagrees that the ability to request a reporting extension ''would create a broad and vague mechanism'' that owners and operators ''could use to evade binding emissions standards'' or evade ''binding compliance reporting deadlines'' for emissions standards. While reporting is an important mechanism for the EPA and air agencies to assess whether owners and operators are in compliance with emissions standards, reporting obligations are separate from (*i.e.,* in addition to) requirements that an owner or operator be in compliance with an emissions standard, especially where the deadline for meeting the standard has already passed and the owner or operator has certified and is monitoring operations to show that they are in compliance with the standard. The commenter references deadlines set forth in the CAA for demonstrating initial compliance following the effective date of emission standards, which differs from deadlines for submitting reports. There are no such deadlines stated in the CAA for report due dates, meaning the EPA has discretion to establish reporting schedules, and also discretion to allow a mechanism for extension of those schedules on a case-by-case basis. In fact, under the commenter's reasoning, if the statutory deadlines for compliance with standards were read to strictly apply to continuing reporting requirements, no such reporting could be required after 3 years from the promulgation of the standards. This would not be a reasonable result. Reporting deadlines are often different from compliance deadlines. Rules under 40 CFR part 60 and 63 typically allow months following an initial compliance deadline to conduct testing and submit reports, but compliance with standards is required upon the compliance date.

Additionally, the ability to request a reporting extension does not apply to a broad category of circumstances; on the contrary, the scope for submitting an extension request for an electronic report is very limited in that claims can only be made for an event outside of the owner's or operator's control that occurs in the five business days prior to the reporting deadline. The claim must then be approved by the Administrator, and in approving such a claim, the

Administrator agrees that something outside the control of the owner or operator prevented the owner or operator from meeting its reporting obligation. In no circumstance does this electronic reporting extension allow for the owner or operator to be out of compliance with the underlying emissions standards. If the Administrator determines that a facility has not acted in good faith to reasonably report in a timely manner, the Administrator can reject the claim and find that the failure to report timely is a deviation from the regulation. CEDRI system outages are infrequent, but the EPA knows when they occur and whether a facility's claim is legitimate. Force majeure events (*e.g.,* natural disasters impacting a facility) are also usually well-known events.

Finally, EPA disagrees that the existing statistics on the use of CEDRI and e-reporting precludes the need for a provision to account for an outage of the CEDRI system. Prudent management of electronic data systems builds in allowances for unexpected, non-routine delays, such as occurred on July 1, 2016 and October 20–23, 2017, and is consistent with the already-existing provisions afforded for unexpected, non-routine delays in performance testing [see 40 CFR 60.8(a)(1) and (2) and 40 CFR 63.7(a)(4)]. For both electronic reporting and performance testing, owners or operators are to conduct and complete their activities within a short window of time; the EPA believes it is prudent to allow owners or operators to make force majeure claims for situations beyond their reasonable control. The EPA also disagrees that incidental issues with questions on completing the form or the procedures for accessing CEDRI for which the CEDRI Helpdesk is available, are conditions that would be considered either force majeure or a CEDRI system outage. The existence of the Helpdesk for answering questions on procedures in submitting reports to CEDRI have no impact on the availability of CEDRI in such a circumstance. The purpose of these requests for extensions are to accommodate owners and operators in cases where they cannot successfully submit a report electronically for reasons that are beyond their control and occur during a short window of time prior to the reporting deadline. The extension is not automatic, and the Administrator retains the right to accept or reject the request. The language was added as part of the standard electronic reporting language based on numerous comments received on the proposal for the Electronic Reporting and Recordkeeping Requirements for the New Source Performance Standards (80 FR 15100). As such, we have determined that no changes to the electronic reporting requirements are necessary in the final rule.

Additional comments on the proposed electronic reporting requirements and other amendments and our specific responses to those comments can be found in the memorandum titled *Summary of Public Comments and Responses for the Risk and Technology Review for Solvent Extraction for Vegetable Oil Production,* available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the other amendments for the Solvent Extraction for Vegetable Oil Production source category?

We evaluated the comment on the EPA's proposed amendments to require electronic reporting initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports. For the reasons explained in the proposed rule, we determined that these amendments increase the ease and efficiency of data submittal and improve data accessibility. More information concerning the proposed requirement for owners and operators of vegetable oil production facilities to submit electronic copies of certain notifications and reports is in the preamble to the proposed rule (84 FR 30830, June 27, 2019) and the document, *Summary of Public Comments and Responses for the Risk and Technology Review for the Solvent Extraction for Vegetable Oil Production,* available in the docket for this action. Therefore, we are finalizing our approach for submission of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports as proposed.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

The EPA estimates that there are 89 vegetable oil production facilities that are currently subject to the Solvent Extraction for Vegetable Oil Production NESHAP and would be affected by the final amendments. The basis of our estimate of affected facilities is provided in the memorandum, *Residual Risk Modeling File Documentation for the Solvent Extraction for Vegetable Oil Production Source Category,* which is available in the docket for this action. We additionally anticipate one new source per year. The EPA received comment on the proposed rule that some larger facilities may have significant modifications about once a year, therefore, we assume that eight existing vegetable oil production facilities may have a significant modification that could meet the revised requirements for initial startup periods.

B. What are the air quality impacts?

The EPA estimates that annual HAP emissions from the vegetable oil production facilities that are subject to the NESHAP are approximately 13,500 tpy.[4] Because the EPA is not revising the emission limits, we do not anticipate any quantifiable air quality impacts as a result of these amendments. However, we anticipate that the final requirements, including the work practice standards for the optional initial startup period, are at least as stringent as the current rule requirements. The work practice standards include requirements for facilities to operate controls, including the mineral oil absorption system and solvent condensers, at all times during the initial startup period. Facilities must also establish and follow site-specific operating ranges for temperature and vacuum for the desolventizing and oil distillation units associated with solvent recovery. We anticipate these requirements will minimize emissions during these periods.

C. What are the cost impacts?

The 89 vegetable oil production facilities that would be subject to the final amendments, and one additional new source per year, would incur minimal net costs to meet revised recordkeeping and reporting requirements, some estimated to have costs and some estimated to have cost savings. Nationwide costs associated with the final requirements are estimated to total $93,100 over the 3 years following promulgation of amendments (or $31,033 per year). The EPA believes that the vegetable oil production facilities that are known to be subject to the NESHAP can meet the final requirements without incurring additional capital or operational costs. Therefore, the only costs associated with the final amendments include a one-time burden for reviewing requirements of the amended rule, and a one-time burden associated with recordkeeping and reporting labor costs for initial startup periods for new, reconstructed, or significantly modified

[4] The annual HAP emission estimates include emissions from 88 facilities. Annual emissions are not yet available for one newly constructed facility.

facilities. The EPA assumed in the proposed rule that one potential new or reconstructed vegetable oil production facility would be subject to the revised requirements for initial startup periods each year. However, we received comment on the proposed rule that some larger facilities may have significant modifications about once a year. Therefore, we have revised the costs associated with the final rule to assume that approximately eight existing vegetable oil production facilities (or approximately 10 percent of existing facilities) may have a significant modification that could require that they meet the revised requirements for initial startup periods. The revised assumption results in an increase in the total nationwide annual costs associated with the final requirements to account for the additional facilities anticipated to have a significant modification (actual costs per facility have not changed). For further information on the costs and cost savings associated with the final requirements, see the memorandum, *Cost for the Solvent Extraction for Vegetable Oil Production Source Category Risk and Technology Review—Final Amendments,* and the document, *Supporting Statement for NESHAP for Solvent Extraction for Vegetable Oil Production,* which are both available in the docket for this action.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a final rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a final rule. The total costs associated with the final rule are estimated to be $93,100 (or $31,033 per year) for the 3 years following the final rule. This includes a one-time burden for reviewing requirements of the amended rule, and a one-time burden associated with the recordkeeping and reporting for initial startup periods for new, reconstructed, or significantly modified facilities. This is an estimated average cost of approximately $345 per year per facility. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

Although the EPA does not anticipate quantifiable reductions in HAP emissions as a result of the final amendments, we believe that the action will result in improvements to the rule. Specifically, the final amendments revise the standards such that they apply at all times. For facilities that choose to operate under an initial startup period, the EPA is finalizing an alternative work practice standard that will ensure that facilities are operating controls and minimizing emissions while the source operates under non-steady state production, which we expect will protect public health and the environment through better compliance during these periods. Additionally, the final amendments requiring electronic submittal of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test results will streamline reporting for affected sources, increase the usefulness of the data and improve data accessibility for the public, will further assist in the protection of public health and the environment, and will ultimately result in less burden on the regulated community. See section IV.D.2 of the preamble to the proposed rule for more information.

F. What analysis of environmental justice did we conduct?

As discussed in the preamble to the proposed rule, to examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Solvent Extraction for Vegetable Oil Production source category across different demographic groups within the populations living near facilities. When examining the risk levels of those exposed to emissions from solvent extraction for vegetable oil production facilities, we found that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1.

The documentation for this decision is contained in section IV.A of the preamble to the proposed rule and the technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Solvent Extraction for Vegetable Oil Production,* which is available in the docket for this action.

G. What analysis of children's environmental health did we conduct?

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are summarized in section IV.A of this preamble and are further documented in the risk report, *Residual Risk Assessment for the Solvent Extraction for Vegetable Oil Production Source Category in Support of the 2019 Risk and Technology Review Final Rule,* available in the docket for this action.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1947.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The EPA is finalizing amendments that revise provisions pertaining to emissions during periods of SSM; add requirements for electronic reporting of certain notifications and reports and performance test results; and make other minor clarifications and corrections. This information will be collected to assure compliance with the Solvent

Extraction for Vegetable Oil Production NESHAP.

Respondents/affected entities: Owners or operators of vegetable oil production processes.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart GGGG).

Estimated number of respondents: 90 (assumes one new respondent over the next 3 years).

Frequency of response: Initially, occasionally, and annually.

Total estimated burden: The annual recordkeeping and reporting burden for responding facilities to comply with all of the requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be 34,100 hours. Of these, 448 hours (per year) is the incremental burden to comply with the final rule amendments. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting cost for responding facilities to comply with all of the requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be $3,490,000 (per year), including $0 annualized capital or operation and maintenance costs. Of the total, $31,033 (per year) is the incremental cost to comply with the final amendments to the rule, or approximately $345 per facility.

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 the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small vegetable oil production facilities. The Agency has determined that up to 12 small entities, representing approximately 13 percent of the total number of entities subject to the final rule, may experience an impact of less than 1 percent of revenues. See section V.D of this preamble for additional information on the economic impacts of this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action 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.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. None of the solvent extraction for vegetable oil production facilities that have been identified as being affected by this final action are owned or operated by tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections IV.A of this preamble and the document, *Residual Risk Assessment for the Solvent Extraction for Vegetable Oil Production Source Category in Support of the 2019 Risk and Technology Review Final Rule,* which is available in the docket for this rulemaking.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking involves technical standards. As discussed in the preamble of the proposal, the EPA conducted searches for the Solvent Extraction for Vegetable Oil Production Sector Risk and Technology Review through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Method 311 of 40 CFR part 63, appendix A. No applicable VCS were identified for EPA Method 311. The search identified two VCS that were potentially applicable for this rule in lieu of EPA reference methods. After reviewing the available standards, the EPA determined that the two candidate VCS (ASTM D6438 (1999), CARB Method 310)) identified for measuring emissions of pollutants or their surrogates subject to emissions standards in the rule would not be practical due to lack of equivalency, documentation, validation data, and other important technical and policy considerations.

A thorough summary of the search conducted, and results are included in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Solvent Extraction for Vegetable Oil Production,* which is available in the docket for this action.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.A of this preamble and in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Vegetable Oil Production Facilities,* available in the docket for this action.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: February 25, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 63 as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

Subpart GGGG—National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production

■ 2. Section 63.2834 is amended by revising Table 1 of § 63.2834 to read as follows:

§ 63.2834 When do I have to comply with the standards in this subpart?

* * * * *

TABLE 1 OF § 63.2834—COMPLIANCE DATES FOR EXISTING AND NEW SOURCES

If your affected source is categorized as . . .	And if . . .	Then your compliance date is . . .	Except for certain requirements, as specified in §§ 63.2840, 63.2850, 63.2851, 63.2852, 63.2853, 63.2861, 63.2862, and 63.2870, then your compliance date is . . .
(a) an existing source		April 12, 2004	September 15, 2020.
(b) a new source	you startup your affected source before April 12, 2001.	April 12, 2004	September 15, 2020.
(c) a new source	you startup your affected source on or after April 12, 2001, but before March 18, 2020.	your startup date	September 15, 2020.
(d) a new source	you startup your affected source on or after March 18, 2020.	your startup date	your startup date.

■ 3. Section 63.2840 is amended by:

■ a. Revising the introductory text and paragraphs (a)(1) introductory text and (b) introductory text;

■ b. Removing and reserving paragraph (b)(1);

■ c Revising paragraphs (b)(3) through (5); and

■ d. Adding paragraphs (g) and (h).

The revisions and additions read as follows:

§ 63.2840 What emission requirements must I meet?

For each facility meeting the applicability criteria in § 63.2832, you must comply with either the requirements specified in paragraphs (a) through (d), or the requirements in paragraph (e) of this section. You must also comply with the requirements in paragraph (g) of this section. You must comply with the work practice standard provided in paragraph (h) of this section, if you choose to operate your source under an initial startup period subject to § 63.2850(c)(2) or (d)(2).

(a)(1) The emission requirements limit the number of gallons of HAP lost per ton of listed oilseeds processed. For each operating month, as defined in § 63.2872, you must calculate a compliance ratio which compares your actual HAP loss to your allowable HAP loss for the previous 12 operating months as shown in Equation 1 of this section. Equation 1 of this section follows:

* * * * *

(b) When your source has processed listed oilseed for 12 operating months, calculate the compliance ratio by the end of each calendar month following an operating month, as defined in § 63.2872, using Equation 2 of this section. When calculating your compliance ratio, consider the conditions and exclusions in paragraphs (b)(1) through (6) of this section:

* * * * *

(3) If your source shuts down and processes no listed oilseed for an entire calendar or accounting month, then you must categorize the month as a nonoperating month, as defined in § 63.2872. Exclude any nonoperating months from the compliance ratio determination.

(4) If your source is subject to an initial startup period as defined in § 63.2872, you may exclude from the compliance ratio determination any solvent and oilseed information recorded for the initial startup period, provided you meet the work practice standard in § 63.2850(c)(2) or (d)(2).

(5) Before September 15, 2020, if your source is subject to a malfunction period as defined in § 63.2872, exclude from the compliance ratio determination any solvent and oilseed information recorded for the malfunction period. The provisions of this paragraph (e) do not apply on and after September 15, 2020.

* * * * *

(g) On or after September 15, 2020, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, at all times in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(h) On and after September 15, 2020, you must meet the requirements in paragraphs (h)(1) through (3) of this section if you choose to operate your source under an initial startup period subject to § 63.2850(c)(2) or (d)(2).

(1) You must operate the mineral oil absorption system at all times during the initial startup period unless doing so is not possible due to safety considerations;

(2) You must operate the solvent condensers at all times during the initial startup period unless doing so is not possible due to safety considerations; and

(3) You must follow site-specific operating limits, established according to the requirements in paragraphs

(h)(3)(i) and (ii) of this section, for temperature and pressure for the desolventizing and oil distillation units associated with solvent recovery at all times, unless doing so is not possible due to safety considerations.

(i) Your site-specific operating limits may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.

(ii) The operating limits may be in the form of a minimum, maximum, or operating range.

■ 4. Section 63.2850 is amended by:
■ a. Revising paragraph (a)(3) and paragraph (a)(5) introductory text;
■ b. Adding paragraph (a)(5)(iv);
■ c. Revising paragraphs (b), (c)(1) and (2), (d)(1) and (2), (e) introductory text, and (e)(2); and
■ d. Revising Table 1 of § 63.2850.

The revisions and addition read as follows:

§ 63.2850 How do I comply with the hazardous air pollutant emission standards?

(a) * * *

(3) Develop a written startup, shutdown and malfunction (SSM) plan in accordance with the provisions in § 63.2852. On and after September 15, 2020, an SSM plan is not required.

* * * * *

(5) Submit the reports in paragraphs (a)(5)(i) through (iv) of this section, as applicable:

* * * * *

(iv) Initial startup period reports in accordance with § 63.2861(e).

* * * * *

(b) *Existing sources under normal operation.* You must meet all of the requirements listed in paragraph (a) of this section and Table 1 of this section for sources under normal operation, and the schedules for demonstrating compliance for existing sources under normal operation in Table 2 of this section.

(c) * * *

(1) *Normal operation.* Upon initial startup of your new source, you must meet all of the requirements listed in § 63.2850(a) and Table 1 of this section for sources under normal operation, and the schedules for demonstrating compliance for new sources under normal operation in Table 2 of this section.

(2) *Initial startup period.* For up to 6 calendar months after the startup date of your new source, you must meet all of the requirements listed in paragraph (a) of this section and Table 1 of this section for sources operating under an initial startup period, and the schedules for demonstrating compliance for new sources operating under an initial startup period in Table 2 of this section. On and after September 15, 2020, you must also comply with the work practice standard in § 63.2840(h) for the duration of the initial startup period. At the end of the initial startup period (as defined in § 63.2872), your new source must then meet all of the requirements listed in Table 1 of this section for sources under normal operation.

(d) * * *

(1) *Normal operation.* Upon initial startup of your significantly modified existing or new source, you must meet all of the requirements listed in paragraph (a) of this section and Table 1 of this section for sources under normal operation, and the schedules for demonstrating compliance for an existing or new source that has been significantly modified in Table 2 of this section.

(2) *Initial startup period.* For up to 3 calendar months after the startup date of your significantly modified existing or new source, you must meet all of the requirements listed in paragraph (a) of this section and Table 1 of this section for sources operating under an initial startup period, and the schedules for demonstrating compliance for a significantly modified existing or new source operating under an initial startup period in Table 2 of this section. On and after September 15, 2020, you must also comply with the work practice standard in § 63.2840(h) for the duration of the initial startup period. At the end of the initial startup period (as defined in § 63.2872), your new or existing source must meet all of the requirements listed in Table 1 of this section for sources under normal operation.

(e) *Existing or new sources experiencing a malfunction.* A *malfunction* is defined in § 63.2. In general, it means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to function in a normal or usual manner. If your existing or new source experiences an unscheduled shutdown as a result of a malfunction, continues to operate during a malfunction (including the period reasonably necessary to correct the malfunction), or starts up after a shutdown resulting from a malfunction, then you must meet the requirements associated with one of two compliance options. Routine or scheduled process startups and shutdowns resulting from, but not limited to, market demands, maintenance activities, and switching types of oilseed processed, are not startups or shutdowns resulting from a malfunction and, therefore, do not qualify for this provision. Within 15 days of the beginning date of the malfunction, you must choose to comply with one of the options listed in paragraphs (e)(1) and (2) of this section. The provisions of this paragraph (e) do not apply on and after September 15, 2020.

* * * * *

(2) *Malfunction period.* Throughout the malfunction period, you must meet all of the requirements listed in paragraph (a) of this section and Table 1 of this section for sources operating during a malfunction period. At the end of the malfunction period, your source must then meet all of the requirements listed in Table 1 of this section for sources under normal operation. Table 1 of this section follows:

TABLE 1 OF § 63.2850—REQUIREMENTS FOR COMPLIANCE WITH HAP EMISSION STANDARDS

Are you required to . . .	For periods of normal operation? [a]	For initial startup periods subject to § 63.2850(c)(2) or (d)(2)?	Before September 15, 2020, for malfunction periods subject to § 63.2850(e)(2)? [a]
(a)(1) Operate and maintain your source in accordance with general duty provisions of § 63.6(e) before September 15, 2020?	Yes. Additionally, the HAP emission limits will apply.	Yes, you are required to minimize emissions to the extent practicable throughout the initial startup period. Such measures should be described in the SSM plan.	Yes, you are required to minimize emissions to the extent practicable throughout the initial startup period. Such measures should be described in the SSM plan.

TABLE 1 OF § 63.2850—REQUIREMENTS FOR COMPLIANCE WITH HAP EMISSION STANDARDS—Continued

Are you required to . . .	For periods of normal operation? [a]	For initial startup periods subject to § 63.2850(c)(2) or (d)(2)?	Before September 15, 2020, for malfunction periods subject to § 63.2850(e)(2)? [a]
(a)(2) Operate and maintain your source in accordance with general duty provisions of § 63.6(e) on and after September 15, 2020?	No, you must meet the requirements of § 63.2840(g). Additionally, the HAP emission limits will apply.	No, you must meet the requirements of § 63.2840(g).	
(b) Determine and record the extraction solvent loss in gallons from your source?	Yes, as described in § 63.2853 ..	Yes, as described in § 63.2862(e) (before September 15, 2020) and § 63.2862(f) (on and after September 15, 2020).	Yes, as described in § 63.2862(e).
(c) Record the volume fraction of HAP present at greater than 1 percent by volume and gallons of extraction solvent in shipment received?	Yes	Yes	Yes.
(d) Determine and record the tons of each oilseed type processed by your source?	Yes, as described in § 63.2855 ..	No	No.
(e) Determine the weighted average volume fraction of HAP in extraction solvent received as described in § 63.2854 by the end of the following calendar month?	Yes	No. Except for solvent received by a new or reconstructed source commencing operation under an initial startup period, the HAP volume fraction in any solvent received during an initial startup period is included in the weighted average HAP determination for the next operating month.	No, the HAP volume fraction in any solvent received during a malfunction period is included in the weighted average HAP determination for the next operating month.
(f) Determine and record the actual solvent loss, weighted average volume fraction HAP, oilseed processed and compliance ratio for each 12 operating month period as described in § 63.2840 by the end of the following calendar month?	Yes	No, these requirements are not applicable because your source is not required to determine the compliance ratio with data recorded for an initial startup period.	No, these requirements are not applicable because your source is not required to determine the compliance ratio with data recorded for a malfunction period.
(g) Submit a Notification of Compliance Status or Annual Compliance Certification as appropriate?	Yes, as described in §§ 63.2860(d) and 63.2861(a).	No. However, you may be required to submit an annual compliance certification for previous operating months, if the deadline for the annual compliance certification happens to occur during the initial startup period.	No. However, you may be required to submit an annual compliance certification for previous operating months, if the deadline for the annual compliance certification happens to occur during the malfunction period.
(h)(1) Submit a Deviation Notification Report by the end of the calendar month following the month in which you determined that the compliance ratio exceeds 1.00 as described in § 63.2861(b) before September 15, 2020?	Yes	No, these requirements are not applicable because your source is not required to determine the compliance ratio with data recorded for an initial startup period.	No, these requirements are not applicable because your source is not required to determine the compliance ratio with data recorded for a malfunction period.
(h)(2) Submit a Deviation Notification Report as described in § 63.2861(b) on and after September 15, 2020?	Yes	Yes	No.
(i) Submit a Periodic SSM Report as described in § 63.2861(c)?	No, a SSM activity is not categorized as normal operation.	Yes, before September 15, 2020	Yes.
(j) Submit an Immediate SSM Report as described in § 63.2861(d)?	No, a SSM activity is not categorized as normal operation.	Yes, only before September 15, 2020 and if your source does not follow the SSM plan.	Yes, only if your source does not follow the SSM plan.
(k) Submit an Initial Startup Report as described in § 63.2861(e) on and after September 15, 2020?	No	Yes	No.

[a] Beginning on September 15, 2020, you must meet the requirements of this table for normal operating periods or for initial startup periods subject to § 63.2850(c)(2) or (d)(2) at all times. The column ''For malfunction periods subject to § 63.2850(e)(2)?'' is not applicable beginning on September 15, 2020.

■ 5. Section 63.2851 is amended by revising paragraph (a) introductory text and adding paragraph (a)(8) to read as follows:

§ 63.2851 What is a plan for demonstrating compliance?

(a) You must develop and implement a written plan for demonstrating compliance that provides the detailed procedures you will follow to monitor and record data necessary for demonstrating compliance with this subpart. Procedures followed for quantifying solvent loss from the source and amount of oilseed processed vary from source to source because of site-specific factors such as equipment design characteristics and operating conditions. Typical procedures include one or more accurate measurement methods such as weigh scales, volumetric displacement, and material mass balances. Because the industry does not have a uniform set of procedures, you must develop and implement your own site-specific plan for demonstrating compliance before the compliance date for your source. You must also incorporate the plan for demonstrating compliance by reference in the source's title V permit and keep the plan on-site and readily available as long as the source is operational. If you make any changes to the plan for demonstrating compliance, then you must keep all previous versions of the plan and make them readily available for inspection for at least 5 years after each revision. The plan for demonstrating compliance must include the items in paragraphs (a)(1) through (8) of this section:

* * * * *

(8) On and after September 15, 2020, if you choose to operate your source under an initial start-up period subject to § 63.2850(c)(2) or (d)(2), the items in paragraphs (c)(8)(i) and (ii) of this section:

(i) Your site-specific operating limits, and their basis, for temperature and pressure for the desolventizing and oil distillation units associated with solvent recovery.

(ii) A detailed description of all methods of measurement your source will use to measure temperature and pressure, including the measurement frequency.

* * * * *

■ 6. Section 63.2852 is revised to read as follows:

§ 63.2852 What is a startup, shutdown, and malfunction plan?

Before September 15, 2020, you must develop a written SSM plan in accordance with § 63.6(e)(3). You must complete the SSM plan before the compliance date for your source. You must also keep the SSM plan on-site and readily available as long as the source is operational. The SSM plan provides detailed procedures for operating and maintaining your source to minimize emissions during a qualifying SSM event for which the source chooses the § 63.2850(e)(2) malfunction period, or the § 63.2850(c)(2) or (d)(2) initial startup period. The SSM plan must specify a program of corrective action for malfunctioning process and air pollution control equipment and reflect the best practices now in use by the industry to minimize emissions. Some or all of the procedures may come from plans you developed for other purposes such as a Standard Operating Procedure manual or an Occupational Safety and Health Administration Process Safety Management plan. To qualify as a SSM plan, other such plans must meet all the applicable requirements of these NESHAP. The provisions of this section do not apply on and after September 15, 2020.

■ 7. Section 63.2853 is amended by:

■ a. Revising paragraph (a)(2) introductory text;

■ b. Revising the heading for Table 1 of § 63.2853 in paragraph (a)(2);

■ c. Adding Table 2 of § 63.2853(a)(2) to paragraph (a)(2); and

■ d. Revising paragraphs (a)(3), (a)(5)(i), and (c)(1), (3), and (4).

The revisions and addition read as follows:

§ 63.2853 How do I determine the actual solvent loss?

* * * * *

(a) * * *

(2) *Source operating status.* You must categorize the operating status of your source for each recorded time interval in accordance with criteria in Table 1 or Table 2 of this section, as follows:

TABLE 1 OF § 63.2853(a)(2)—CATEGORIZING YOUR SOURCE OPERATING STATUS BEFORE SEPTEMBER 15, 2020

* * * * *

TABLE 2 OF § 63.2853(a)(2)—CATEGORIZING YOUR SOURCE OPERATING STATUS ON AND AFTER SEPTEMBER 15, 2020

If during a recorded time interval . . .	Then your source operating status is . . .
(vi) Your source processes any amount of listed oilseed and source is not operating under an initial startup operating period subject to § 63.2850(c)(2) or (d)(2).	A normal operating period.
(vii) Your source processes no agricultural product and your source is not operating under an initial startup period subject to § 63.2850(c)(2) or (d)(2).	A nonoperating period.
(viii) You choose to operate your source under an initial startup period subject to § 63.2850(c)(2) or (d)(2) ..	An initial startup period.
(ix) Your source processes agricultural products not defined as listed oilseed	An exempt period.

(3) *Measuring the beginning and ending solvent inventory.* You are required to measure and record the solvent inventory on the beginning and ending dates of each normal operating period that occurs during an operating month. You must consistently follow the procedures described in your plan for demonstrating compliance, as specified in § 63.2851, to determine the extraction solvent inventory, and maintain readily available records of the actual solvent loss inventory, as described in § 63.2862(c)(1). In general, you must measure and record the solvent inventory only when the source is actively processing any type of agricultural product. When the source is not active, some or all of the solvent working capacity is transferred to solvent storage tanks which can artificially inflate the solvent inventory.

* * * * *

(5) * * *

(i) *Solvent destroyed in a control device.* You may use a control device to reduce solvent emissions to meet the emission standard. The use of a control device does not alter the emission limit for the source. If you use a control device that reduces solvent emissions through destruction of the solvent instead of recovery, then determine the gallons of solvent that enter the control device and are destroyed there during each normal operating period. All

solvent destroyed in a control device during a normal operating period can be subtracted from the total solvent loss. Examples of destructive emission control devices include catalytic incinerators, boilers, or flares. Identify and describe, in your plan for demonstrating compliance, each type of reasonable and sound measurement method that you use to quantify the gallons of solvent entering and exiting the control device and to determine the destruction efficiency of the control device. You may use design evaluations to document the gallons of solvent destroyed or removed by the control device instead of performance testing under § 63.7. The design evaluations must be based on the procedures and options described in § 63.985(b)(1)(i)(A) through (C) or § 63.11, as appropriate. All data, assumptions, and procedures used in such evaluations must be documented and available for inspection. If you use performance testing to determine solvent flow rate to the control device or destruction efficiency of the device, follow the procedures as outlined in § 63.997(e)(1) and (2) and the requirements in paragraph (a)(5)(i)(A) of this section. Instead of periodic performance testing to demonstrate continued good operation of the control device, you may develop a monitoring plan, following the procedures outlined in § 63.988(c) and using operational parametric measurement devices such as fan parameters, percent measurements of lower explosive limits, and combustion temperature.

(A) On or after September 15, 2020, you must conduct all performance tests under such conditions as the Administrator specifies to you based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(B) [Reserved]

(c) * * *

(1) Nonoperating periods as described in paragraph (a)(2) of this section.

* * * * *

(3) Before September 15, 2020, malfunction periods as described in § 63.2850(e)(2).

(4) Exempt operation periods as described in paragraph (a)(2) of this section.

■ 8. Section 63.2855 is amended by revising paragraphs (a)(3), (a)(5)(i), and (c)(3) to read as follows:

§ 63.2855 How do I determine the quantity of oilseed processed?

* * * * *

(a) * * *

(3) *Measuring the beginning and ending inventory for each oilseed.* You are required to measure and record the oilseed inventory on the beginning and ending dates of each normal operating period that occurs during an operating month. You must consistently follow the procedures described in your plan for demonstrating compliance, as specified in § 63.2851, to determine the oilseed inventory on an as received basis and maintain readily available records of the oilseed inventory as described by § 63.2862(c)(3).

* * * * *

(5) * * *

(i) Oilseed that molds or otherwise become unsuitable for processing.

* * * * *

(c) * * *

(3) Before September 15, 2020, malfunction periods as described in § 63.2850(e)(2).

* * * * *

■ 9. Section 63.2861 is amended by
■ a. Revising paragraph (b) introductory text;
■ b. Adding paragraphs (b)(5) through (8);
■ c. Revising paragraphs (c) introductory text and (d) introductory text; and
■ d. Adding paragraphs (e) through (i).

The revisions and additions read as follows:

§ 63.2861 What reports must I submit and when?

* * * * *

(b) *Deviation notification report.* Submit a deviation report for each compliance determination you make in which the compliance ratio exceeds 1.00 as determined under § 63.2840(c) or if you deviate from the work practice standard for an initial startup period subject to § 63.2850(c)(2) or (d)(2). Submit the deviation report by the end of the month following the calendar month in which you determined the deviation. The deviation notification report must include the items in paragraphs (b)(1) through (7) of this section if you exceed the compliance ratio, and must include the items in paragraphs (b)(1), (2), and (5) through (8) of this section if you deviate from the work practice standard:

* * * * *

(5) Beginning on September 15, 2020, the number of deviations and for each deviation the date and duration of each deviation. Flag and provide an explanation for any deviation from the compliance ratio for which a deviation report is being submitted for more than one consecutive month (*i.e.,* include a reference to the original date and reporting of the deviation). If the explanation provides that corrective actions have returned the affected unit(s) to its normal operation, you are not required to include the items in paragraphs (b)(6) and (7) of this section.

(6) Beginning on September 15, 2020, a statement of the cause of each deviation (including unknown cause, if applicable).

(7) Beginning on September 15, 2020, for each deviation, a list of the affected sources or equipment, an estimate of the quantity of HAP emitted over the emission requirements of § 63.2840, and a description of the method used to estimate the emissions.

(8) A description of the deviation from the work practice standard during the initial startup period, including the records of § 63.2862(f) for the deviation.

(c) *Periodic startup, shutdown, and malfunction report.* Before September 15, 2020, if you choose to operate your source under an initial startup period subject to § 63.2850(c)(2) or (d)(2) or a malfunction period subject to § 63.2850(e)(2), you must submit a periodic SSM report by the end of the calendar month following each month in which the initial startup period or malfunction period occurred. The periodic SSM report must include the items in paragraphs (c)(1) through (3) of this section. The provisions of this paragraph (c) do not apply on and after September 15, 2020.

* * * * *

(d) *Immediate SSM reports.* Before September 15, 2020, if you handle a SSM during an initial startup period subject to § 63.2850(c)(2) or (d)(2) or a malfunction period subject to § 63.2850(e)(2) differently from procedures in the SSM plan and the relevant emission requirements in § 63.2840 are exceeded, then you must submit an immediate SSM report. Immediate SSM reports consist of a telephone call or facsimile transmission to the responsible agency within 2 working days after starting actions inconsistent with the SSM plan, followed by a letter within 7 working

days after the end of the event. The letter must include the items in paragraphs (d)(1) through (3) of this section. The provisions of this paragraph (d) do not apply on and after September 15, 2020.

* * * * *

(e) *Initial startup period reports.* If you choose to operate your source under an initial startup period subject to § 63.2850(c)(2) or (d)(2) on and after September 15, 2020, you must submit an initial startup period report within 30 days after the initial startup period ends. The report must include the items in paragraphs (e)(1) through (3) of this section.

(1) The name and address of the owner or operator.

(2) The physical address of the vegetable oil production process.

(3) A compliance certification indicating whether the source was in compliance with the work practice standard of § 63.2840(h).

(f) *Performance tests.* On and after September 15, 2020, if you conduct performance tests to determine solvent flow rate to a control device or destruction efficiency of a control device according to the requirements of § 63.2853(a)(5)(i), within 60 days after the date of completing each performance test, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) and (2) of this section.

(1) *Data collected using test methods supported by EPA's Electronic Reporting Tool (ERT) as listed on EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on EPA's ERT website.

(2) *Data collected using test methods that are not supported by EPA's ERT as listed on EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the ERT generated package or alternative file to EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under paragraph (f) or (g) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described in paragraph (f)(1) of this section.

(g) *Submitting reports electronically.* On and after September 15, 2020, you must submit the initial notification required in § 63.2860(b) and the annual compliance certification, deviation report, and initial startup report required in § 63.2861(a), (b), and (e) to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov*). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described earlier in this paragraph.

(h) *Claims of EPA system outage.* If you are required to electronically submit a report through CEDRI in EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(i) *Claims of force majeure.* If you are required to electronically submit a report through CEDRI in EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility

that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 10. Section 63.2862 is amended by:

■ a. Revising paragraph (b) and paragraph (c) introductory text;

■ b. Revising paragraphs (c)(3)(ii), (d) introductory text, and (e) introductory text; and

■ c. Adding paragraphs (f) through (h).

The revisions and additions read as follows:

§ 63.2862 What records must I keep?

* * * * *

(b) Before September 15, 2020, prepare a plan for demonstrating compliance (as described in § 63.2851) and a SSM plan (as described in § 63.2852). In these two plans, describe the procedures you will follow in obtaining and recording data, and determining compliance under normal operations or a SSM subject to the § 63.2850(c)(2) or (d)(2) initial startup period or the § 63.2850(e)(2) malfunction period. Complete both plans before the compliance date for your source and keep them on-site and readily available as long as the source is operational. On and after September 15, 2020, the requirement to prepare a SSM plan no longer applies, and the plan for demonstrating compliance must only describe the procedures you develop according to the requirements of § 63.2851.

(c) If your source processes any listed oilseed, record the items in paragraphs (c)(1) through (3) of this section:

* * * * *

(3) * * *

(ii) The operating status of your source, as described in § 63.2853(a)(2). On the log for each type of listed oilseed that is not being processed during a normal operating period, you must record which type of listed oilseed is being processed in addition to the source operating status.

* * * * *

(d) After your source has processed listed oilseed for 12 operating months, record the items in paragraphs (d)(1) through (5) of this section by the end of the calendar month following each operating month:

* * * * *

(e) Before September 15, 2020, for each SSM event subject to an initial startup period as described in § 63.2850(c)(2) or (d)(2), or a malfunction period as described in § 63.2850(e)(2), record the items in paragraphs (e)(1) through (3) of this section by the end of the calendar month following each month in which the initial startup period or malfunction period occurred. The provisions of this paragraph (e) do not apply on and after September 15, 2020.

* * * * *

(f) On and after September 15, 2020, for each initial startup period subject to § 63.2850(c)(2) or (d)(2), record the items in paragraphs (f)(1) through (6) of this section by the end of the calendar month following each month in which the initial startup period occurred.

(1) A description and dates of the initial startup period, and reason it qualifies as an initial startup.

(2) An estimate of the solvent loss in gallons for the duration of the initial startup or malfunction period with supporting documentation.

(3) Nominal design rate of the extractor and operating rate of the extractor for the duration of the initial startup period, or permitted production rate and actual production rate of your source for the duration of the initial startup period.

(4) Measured values for temperature and pressure for the desolventizing and oil distillation units associated with solvent recovery.

(5) Information to indicate the mineral oil absorption system was operating at all times during the initial startup period.

(6) Information to indicate the solvent condensers were operating at all times during the initial startup period.

(g) On and after September 15, 2020, keep the records of deviations specified in paragraphs (f)(1) through (4) of this section for each compliance determination you make in which the compliance ratio exceeds 1.00 as determined under § 63.2840(c) or if you deviate from the work practice standard for an initial startup period subject to § 63.2850(c)(2) or (d)(2).

(1) The number of deviations, and the date and duration of each deviation. For deviations from the compliance ratio, the date of the deviation is the date the compliance ratio determination is made. The duration of the deviation from the compliance ratio is the length of time taken to address the cause of the deviation, including the duration of any malfunction, and return the affected unit(s) to its normal or usual manner of operation. For deviations from the work practice standard during the initial startup period, the date of the deviation is the date(s) when the facility fails to comply with any of the work practice standard in § 63.2840(h). The duration of the deviation from the work practice standard is the length of time taken to return to the work practice standards.

(2) A statement of the cause of each deviation (including unknown cause, if applicable).

(3) For each deviation, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(4) Actions taken to minimize emissions in accordance with § 63.2840(g), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(5) If you deviate from the work practice standard for an initial startup period, a description of the deviation from the work practice standard.

(h) Any records required to be maintained by this part that are submitted electronically via EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or EPA as part of an on-site compliance evaluation.

■ 11. Section 63.2870 is amended by revising Table 1 to § 63.2870 to read as follows:

§ 63.2870 What parts of the General Provisions apply to me?

* * * * *

TABLE 1 TO § 63.2870—APPLICABILITY OF 40 CFR PART 63, SUBPART A, TO 40 CFR, PART 63, SUBPART GGGG

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes.	
§ 63.2	Definitions	Definitions for part 63 standards.	Yes	Except as specifically provided in this subpart.
§ 63.3	Units and abbreviations.	Units and abbreviations for part 63 standards.	Yes.	
§ 63.4	Prohibited activities and circumvention.	Prohibited activities; compliance date; circumvention; severability.	Yes.	
§ 63.5	Construction/reconstruction.	Applicability; applications; approvals.	Yes	Except for subsections of § 63.5 as listed below.
§ 63.5(c)	[Reserved].			
§ 63.5(d)(1)(ii)(H)	Application for approval.	Type and quantity of HAP, operating parameters.	No	All sources emit HAP. Subpart GGGG does not require control from specific emission points.
§ 63.5(d)(1)(ii)(I)	[Reserved].			
§ 63.5(d)(1)(iii), (d)(2), (d)(3)(ii).		Application for approval.	No	The requirements of the application for approval for new, reconstructed and significantly modified sources are described in § 63.2860(b) and (c) of subpart GGGG. General provision requirements for identification of HAP emission points or estimates of actual emissions are not required. Descriptions of control and methods, and the estimated and actual control efficiency of such do not apply. Requirements for describing control equipment and the estimated and actual control efficiency of such equipment apply only to control equipment to which the subpart GGGG requirements for quantifying.
§ 63.6	Applicability of General Provisions.	Applicability	Yes	Except for subsections of § 63.6 as listed below.
§ 63.6(b)(1)–(3)	Compliance dates, new and reconstructed sources.		No	Section 63.2834 of subpart GGGG specifies the compliance dates for new and reconstructed sources.
§ 63.6(b)(6)	[Reserved].			
§ 63.6(c)(3)–(4)	[Reserved].			
§ 63.6(d)	[Reserved].			
§ 63.6(e)(1)(i)	Operation and Maintenance.		Yes, before September 15, 2020. No, on or after September 15, 2020.	See § 63.2840(g) for general duty requirement
§ 63.6(e)(1)(ii)	Operation and Maintenance.	Requirement to correct malfunctions as soon as practicable.	Yes, before September 15, 2020]. No, on or after September 15, 2020.	See § 63.2840(g) for general duty requirement.
§ 63.6(e)(3)(i) through (e)(3)(ii) and § 63.6(e)(3)(v) through (vii).	Operation and maintenance requirements.		Yes, before September 15, 2020.	Minimize emissions to the extent practicable. On or after September 15, 2020, see § 63.2840(g) for general duty requirement.
§ 63.6(e)(3)(iii)	Operation and maintenance requirements.		No	Minimize emissions to the extent practicable. On or after September 15, 2020, see § 63.2840(g) for general duty requirement.
§ 63.6(e)(3)(iv)	Operation and maintenance requirements.		No	Report SSM and in accordance with § 63.2861(c) and (d).

TABLE 1 TO § 63.2870—APPLICABILITY OF 40 CFR PART 63, SUBPART A, TO 40 CFR, PART 63, SUBPART GGGG—Continued

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.6(e)(3)(viii)	Operation and maintenance requirements.		Yes, before September 15, 2020. No, on or after September 15, 2020.	Except, before September 15, 2020, report each revision to your SSM plan in accordance with § 63.2861(c) rather than § 63.10(d)(5) as required under § 63.6(e)(3)(viii).
§ 63.6(e)(3)(ix)	Title V permit		Yes, before September 15, 2020. No, on or after September 15, 2020.	
§ 63.6(f)(1)	Compliance with nonopacity emission standards except during SSM.	Comply with emission standards at all times except during SSM.	Yes, before September 15, 2020. No, on or after September 15, 2020.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.		Yes.	
§ 63.6(g)	Use of an Alternative Standard.		Yes.	
§ 63.6(h)	Opacity/Visible emission (VE) standards.		No	Subpart GGGG has no opacity or VE standards.
§ 63.6(i)	Compliance extension.	Procedures and criteria for responsible agency to grant compliance extension.	Yes..	
§ 63.6(j)	Presidential compliance exemption.	President may exempt source category from requirement to comply with subpart.	Yes..	
§ 63.7(e)(1)	Performance testing requirements.	Representative conditions for performance test.	Yes, before September 15, 2020. No, on or after September 15, 2020.	See § 63.2853(a)(5)(i)(A) for performance testing requirements.
§ 63.7(e)(2)–(4), (f), (g), and (h).	Performance testing requirements.	Schedule, conditions, notifications and procedures.	Yes	Subpart GGGG requires performance testing only if the source applies additional control that destroys solvent. Section 63.2850(a)(6) requires sources to follow the performance testing guidelines of the General Provisions if a control is added.
§ 63.8	Monitoring requirements.		No	Subpart GGGG does not require monitoring other than as specified therein.
§ 63.9	Notification requirements.	Applicability and state delegation.	Yes	Except for subsections of § 63.9 as listed below.
§ 63.9(b)(2)	Notification requirements.	Initial notification requirements for existing sources.	No	Section 63.2860(a) of subpart GGGG specifies the requirements of the initial notification for existing sources.
§ 63.9(b)(3)–(5)	Notification requirements.	Notification requirement for certain new/reconstructed sources.	Yes	Except the information requirements differ as described in § 63.2860(b) of subpart GGGG.
§ 63.9(e)	Notification of performance test.	Notify responsible agency 60 days ahead.	Yes	Applies only if performance testing is performed.
§ 63.9(f)	Notification of VE/opacity observations.	Notify responsible agency 30 days ahead.	No	Subpart GGGG has no opacity or VE standards.
§ 63.9(g)	Additional notifications when using a continuous monitoring system (CMS).	Notification of performance evaluation; Notification using COMS data; notification that exceeded criterion for relative accuracy.	No	Subpart GGGG has no CMS requirements.

TABLE 1 TO § 63.2870—APPLICABILITY OF 40 CFR PART 63, SUBPART A, TO 40 CFR, PART 63, SUBPART GGGG—Continued

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.9(h)	Notification of compliance status.	Contents	No	Section 63.2860(d) of subpart GGGG specifies requirements for the notification of compliance status.
§ 63.10	Recordkeeping/reporting.	Schedule for reporting, record storage.	Yes	Except for subsections of § 63.10 as listed below.
§ 63.10(b)(2)(i)	Recordkeeping	Record SSM event	Yes, before September 15, 2020. No, on or after September 15, 2020.	Before September 15, 2020, applicable to periods when sources must implement their SSM plan as specified in subpart GGGG. On or after September 15, 2020, meet the requirements of § 63.2862(f).
§ 63.10(b)(2)(ii)–(iii)	Recordkeeping	Malfunction of air pollution equipment.	No	Before September 15, 2020, applies only if air pollution control equipment has been added to the process and is necessary for the source to meet the emission limit. On or after September 15, 2020, meet the requirements of § 63.2862(g).
§ 63.10(b)(2)(iv)–(v)	Recordkeeping	SSM recordkeeping	Yes, before September 15, 2020. No, on or after September 15, 2020.	
§ 63.10(b)(2)(vi)	Recordkeeping	CMS recordkeeping	No	Subpart GGGG has no CMS requirements.
§ 63.10(b)(2)(viii)–(ix)	Recordkeeping	Conditions of performance test.	Yes	Applies only if performance tests are performed. Subpart GGGG does not have any CMS opacity or VE observation requirements.
§ 63.10(b)(2)(x)–(xii)	Recordkeeping	CMS, performance testing, and opacity and VE observations recordkeeping.	No	Subpart GGGG does not require CMS.
§ 63.10(c)	Recordkeeping	Additional CMS recordkeeping.	No	Subpart GGGG does not require CMS.
§ 63.10(d)(2)	Reporting	Reporting performance test results.	Yes	Applies only if performance testing is performed.
§ 63.10(d)(3)	Reporting	Reporting opacity or VE observations.	No	Subpart GGGG has no opacity or VE standards.
§ 63.10(d)(4)	Reporting	Progress reports	Yes	Applies only if a condition of compliance extension exists.
§ 63.10(d)(5)	Reporting	SSM reporting	No	Section 63.2861(c) and (d) specify SSM reporting requirements.
§ 63.10(e)	Reporting	Additional CMS reports.	No	Subpart GGGG does not require CMS.
§ 63.11	Control device requirements.	Requirements for flares.	Yes	Applies only if your source uses a flare to control solvent emissions. Subpart GGGG does not require flares.
§ 63.12	State authority and delegations.	State authority to enforce standards.	Yes.	
§ 63.13	State/regional addresses.	Addresses where reports, notifications, and requests are sent.	Yes.	
§ 63.14	Incorporation by reference.	Test methods incorporated by reference.	Yes.	
§ 63.15	Availability of information and confidentiality.	Public and confidential information.	Yes.	

■ 12. Section 63.2872 is amended in paragraph (c) by:

■ a. Revising the definitions for ''Compliance ratio'', ''Hazardous air pollutant (HAP)'', ''Initial startup period'', and ''Malfunction period'';

■ b. Adding a definition in alphabetical order for ''Nonoperating month''; and

■ c. Revising the definitions of ''Normal operating period'' and ''Operating month''.

The revisions and addition read as follows:

§ 63.2872 What definitions apply to this subpart?

* * * * *

Compliance ratio means a ratio of the actual HAP loss in gallons from the previous 12 operating months to an allowable HAP loss in gallons, which is determined by using oilseed solvent loss factors in Table 1 of § 63.2840, the weighted average volume fraction of HAP in solvent received for the previous 12 operating months, and the tons of each type of listed oilseed processed in the previous 12 operating months. Months during which no listed oilseed is processed, or months during which the § 63.2850(c)(2) or (d)(2) initial startup period or, before September 15, 2020, the § 63.2850(e)(2) malfunction period applies, are excluded from this calculation. Equation 2 of § 63.2840 is used to calculate this value. If the value is less than or equal to 1.00, the source is in compliance. If the value is greater than 1.00, the source is deviating from compliance.

* * * * *

Hazardous air pollutant (HAP) means any substance or mixture of substances listed as a hazardous air pollutant under section 112(b) of the Clean Air Act.

* * * * *

Initial startup period means a period of time from the initial startup date of a new, reconstructed, or significantly modified source, for which you choose to operate the source under an initial startup period subject to § 63.2850(c)(2) or (d)(2), until the date your source operates for 15 consecutive days at or above 90 percent of the nominal design rate of the extractor or at or above 90 percent of the permitted production rate for your source. The initial startup period following initial startup of a new or reconstructed source may not exceed 6 calendar months. The initial startup period following a significant modification may not exceed 3 calendar months. Solvent and oilseed inventory information recorded during the initial startup period is excluded from use in any compliance ratio determinations.

* * * * *

Malfunction period means a period of time between the beginning and end of a process malfunction and the time reasonably necessary for a source to correct the malfunction for which you choose to operate the source under a malfunction period subject to § 63.2850(e)(2). This period may include the duration of an unscheduled process shutdown, continued operation during a malfunction, or the subsequent process startup after a shutdown resulting from a malfunction. During a malfunction period, a source complies with the standards by minimizing HAP emissions to the extent practicable. Therefore, solvent and oilseed inventory information recorded during a malfunction period is excluded from use in any compliance ratio determinations.

* * * * *

Nonoperating month means any entire calendar or accounting month in which a source processes no agricultural product.

Nonoperating period means any period of time in which a source processes no agricultural product. This operating status does not apply during any period in which the source operates under an initial startup period as described in § 63.2850(c)(2) or (d)(2), or, before September 15, 2020, a malfunction period as described in § 63.2850(e)(2).

Normal operating period or *normal operation* means any period of time in which a source processes a listed oilseed that is not categorized as an initial startup period as described in § 63.2850(c)(2) or (d)(2), or, before September 15, 2020, a malfunction period as described in § 63.2850(e)(2). At the beginning and ending dates of a normal operating period, solvent and oilseed inventory information is recorded and included in the compliance ratio determination.

* * * * *

Operating month means any calendar or accounting month in which a source processes any quantity of listed oilseed, excluding any entire calendar or accounting month in which the source operated under an initial startup period as described in § 63.2850(c)(2) or (d)(2), or, before September 15, 2020, a malfunction period as described in § 63.2850(e)(2). An operating month may include time intervals characterized by several types of operating status. However, an operating month must have at least one normal operating period.

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