

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2021-0016; FRL-8339-01-OAR]

RIN 2060-AV34

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing the results of the technology review conducted in accordance with the Clean Air Act (CAA) for the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources and proposing amendments to the NESHAP. The EPA is proposing no changes to the standards as a result of the technology review. The EPA is proposing to amend provisions regarding electronic reporting; make miscellaneous clarifying and technical corrections; simplify the petition for exemption process; and clarify requirements addressing emissions during periods of startup, shutdown, and malfunction (SSM).

DATES: Comments must be received on or before January 3, 2022. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before December 20, 2021.

Public hearing. If anyone contacts us requesting a public hearing on or before November 24, 2021, we will hold a virtual public hearing. See

SUPPLEMENTARY INFORMATION for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2021-0016 for 40 Code of Federal Regulations (CFR) part 63, subpart HHHHHH, Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our

preferred method). Follow the online instructions for submitting comments.

- *Email:* a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2021-0016 in the subject line of the message.

- *Fax:* (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2021-0016.

- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2021-0016, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions: All submissions received must include the applicable Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID-19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action contact Mr. John Feather, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3052; fax number: (919) 541-4991; and email address: feather.john@epa.gov.

SUPPLEMENTARY INFORMATION: *Participation in virtual public hearing.* Please note that because of current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of

COVID-19, the EPA cannot hold in-person public meetings at this time.

To request a virtual public hearing, contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov. If requested, the virtual hearing will be held on December 6, 2021. The hearing will convene at 11:00 a.m. Eastern Time (ET) and will conclude at 9:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at <https://www.epa.gov/stationary-sources-air-pollution/paint-stripping-and-miscellaneous-surface-coating-operations>.

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/stationary-sources-air-pollution/paint-stripping-and-miscellaneous-surface-coating-operations> or contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov. The last day to pre-register to speak at the hearing will be December 1, 2021. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: <https://www.epa.gov/stationary-sources-air-pollution/paint-stripping-and-miscellaneous-surface-coating-operations>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to feather.john@epa.gov. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-sources-air-pollution/paint-stripping-and-miscellaneous-surface-coating-operations>. While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372-8699 or by email at SPPDpublichearing@epa.gov to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by November 26, 2021. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking: Docket ID No. EPA-HQ-OAR-2021-0016. All documents in the docket are listed in <https://www.regulations.gov>. 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. With the exception of such material, publicly available docket materials are available electronically in *Regulations.gov*.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2021-0016. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the Web, cloud, or other file sharing system). For additional submission methods, the full

EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

Due to public health concerns related to COVID-19, the EPA Docket Center and Reading Room are open to the public by appointment only. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the

information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2021-0016. Note that written comments containing CBI and submitted by mail may be delayed and no hand deliveries will be accepted.

Preamble acronyms and abbreviations. Throughout this document wherever "we," "us," or "our" is used, it is intended to refer to the EPA. 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:

ACA American Coatings Association
 BACT best available control technology
 CAA Clean Air Act
 CBI Confidential Business Information
 CDX Central Data Exchange
 CEDRI Compliance and Emissions Data Reporting Interface
 CFR Code of Federal Regulations
 ECHO Enforcement and Compliance History Online
 EPA Environmental Protection Agency
 ERT Electronic Reporting Tool
 GACT generally available control technology
 HAP hazardous air pollutant(s)
 HVLP high volume, low pressure
 kg kilogram
 km kilometer
 LAER lowest achievable emission rate
 MACT maximum achievable control technology
 MeCl methylene chloride
 NAICS North American Industry Classification System
 NESHAP national emission standards for hazardous air pollutants
 NSR New Source Review
 NTTAA National Technology Transfer and Advancement Act
 OAQPS Office of Air Quality Planning and Standards
 OMB Office of Management and Budget
 OSHA Occupational Safety and Health Administration
 PDF portable document format
 PRA Paperwork Reduction Act
 PTE permanent total enclosure

RACT reasonably available control technology
 RBLC RACT/BACT/LAER Clearinghouse
 RFA Regulatory Flexibility Act
 RTO regenerative thermal oxidizer
 SSM startup, shutdown, and malfunction tpy tons per year
 UMRA Unfunded Mandates Reform Act
 VOC volatile organic compounds

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

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I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source categories that are the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed amendments to 40 CFR part 63, subpart HHHHHH, once promulgated, will be directly applicable to the affected sources. These three area source categories, Paint Stripping, Miscellaneous Surface Coating, and Motor Vehicle and Mobile Equipment Surface Coating, were listed as part of the Urban Air Toxics Strategy and include methylene chloride (MeCl)-containing paint stripping operations and certain surface coating operations located at area sources. The NESHAP's title of Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources refers to a single set of emission standards that addresses all three source categories. Paint stripping is often used as preparation for surface coating operations, so was included along with the other two source categories in this NESHAP but is treated separately within this NESHAP due to differences in practices and standards. The Miscellaneous Surface Coating and Motor Vehicle and Mobile Equipment Surface Coating source categories are subject to similar standards for the same HAP, so they are grouped together as "surface coating" operations for most purposes within this action. However, as explained in this section and section II.B of this preamble, there are some

differences in applicability and standards between the two source categories. An area source is defined in CAA section 112(a) as any stationary source of HAP that is not a major source, and a major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, considering controls, in the aggregate, 10 tons per year (tpy) or more of any single HAP or 25 tpy or more of any combination of HAP. Paint stripping operations are those that perform paint stripping using MeCl for the removal of dried paint (including, but not limited to, paint, enamel, varnish, shellac, and lacquer) from wood, metal, plastic, and other substrates at area sources as either (1) an independent activity where paint stripping is the principal activity at the source or (2) an activity incidental to the principal activity (e.g., surface coating, inspection, maintenance, etc.) at the source. Co-located paint stripping activities that use one ton or less per year are considered to be incidental to the principal activity and those using more than one ton to be performing paint stripping as a principal activity. Motor vehicle and mobile equipment surface coating operations are those that spray apply coatings at area sources to automobiles, light trucks, heavy duty trucks, buses, construction equipment, self-propelled vehicles and equipment that may be drawn and/or driven on a roadway. Miscellaneous surface coating operations are those that involve the spray application of coatings that contain compounds of chromium, lead, manganese, nickel, or cadmium, herein after referred to as target HAP, to miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic. In general, the facilities and entities potentially affected by the proposed amendments to 40 CFR part 63, subpart HHHHHH are covered under the North American Industrial Classification System (NAICS) Codes listed in the following table. However, facilities classified under other NAICS codes may be subject to the proposed amendments if they meet the applicability criteria.

TABLE 1—NESHAP, INDUSTRIAL AND GOVERNMENT SOURCES AFFECTED BY THIS PROPOSED ACTION

| NESHAP source category | NAICS code | Regulated entities ¹ |
|---------------------------|-------------------------------------|---|
| Aerospace Equipment | 336413 336414 336415 54171 | Aircraft engines, aircraft parts, aerospace ground equipment. |

TABLE 1—NESHAP, INDUSTRIAL AND GOVERNMENT SOURCES AFFECTED BY THIS PROPOSED ACTION—Continued

| NESHAP source category | NAICS code | Regulated entities ¹ |
|---|---|--|
| Automobiles and Automobile Parts | 335312 336111 336211 336310 33632 33633 33634 33637 336390 441110 441120 811121 | Engine parts, vehicle parts and accessories, brakes, axles, etc. Motor vehicle body manufacturing and automobile assembly plants. New and used car dealers. Automotive body, paint, and interior repair and maintenance. |
| Chemical Manufacturing and Product Preparation. | 325110 325120 325130 325180 325192 325193 325199 325998 | Petrochemicals, Industrial Gases, Inorganic Dyes and Pigments, Basic Inorganic and Organic Chemicals, Cyclic Crude and Intermediates, Ethyl Alcohol, Miscellaneous Chemical Production and Preparation. |
| Extruded Aluminum | 331318 331524 332321 332323 | Extruded aluminum, architectural components, coils, rod, and tubes. |
| Government | Not Applicable | Government entities, besides Department of Defense, that maintain vehicles, such as school buses, police and emergency vehicles, transit buses, or highway maintenance vehicles. |
| Heavy Equipment | 33312 333611 333618 | Tractors, earth moving machinery. |
| Job Shops | 332312 332722 332813 332991 332999 334118 339999 | Manufacturing industries not elsewhere classified (<i>e.g.</i> , bezels, consoles, panels, lenses). |
| Large Trucks and Buses | 33612 336211 | Large trucks and buses. |
| Metal Buildings | 332311 | Prefabricated metal buildings, carports, docks, dwellings, greenhouses, panels for buildings. |
| Metal Containers | 33242 81131 322219 331513 332439 | Drums, kegs, pails, shipping containers. |
| Metal Pipe and Foundry | 331110 331513 33121 331221 331511 | Plate, tube, rods, nails, etc. |
| Rail Transportation | 33651 482111 | Brakes, engines, freight cars, locomotives. |
| Recreational Vehicles and Other Transportation Equipment. | 321991 3369 331318 336991 336211 336112 336212 336213 336214 336390 336999 33635 56121 8111 56211 | Mobile Homes. Motorcycles, motor homes, semi-trailers, truck trailers. Miscellaneous transportation related equipment and parts. Travel trailer and camper manufacturing. |
| Rubber-to-Metal Products | 326291 326299 | Engine mounts, rubberized tank tread, harmonic balancers. |

TABLE 1—NESHAP, INDUSTRIAL AND GOVERNMENT SOURCES AFFECTED BY THIS PROPOSED ACTION—Continued

| NESHAP source category | NAICS code | Regulated entities ¹ |
|--|--|--|
| Structural Steel | 332311 332312 562211 | Joists, railway bridge sections, highway bridge sections. |
| Waste Treatment, Disposal, and Materials Recovery. | 562212 562213 562219 562920 | Hazardous Waste Treatment and Disposal, Solid Waste Landfill, Solid Waste Combustors and Incinerators, Other Nonhazardous Waste Treatment and Disposal, Materials Recovery. |
| Other Industrial and Commercial | 211130 311942 331313 337214 811420 325211 325510 32614, 32615 326199 333316 33422 339112, 339113, 339114, 339115, 339116 33992 33995 336611, 336612 713930 | Natural Gas Liquid Extraction. Spices and Extracts. Alumina Refining. Office furniture, except wood. Reupholstery and Furniture Repair. Plastics Material Synthetic Resins, and Nonvulcanizable Elastomers. Paint and Coating Manufacturing. Plastic foam products (e.g., pool floats, wrestling mats, life jackets). Plastic products not elsewhere classified (e.g., name plates, coin holders, storage boxes, license plate housings, cosmetic caps, cup holders). Office machines. Radio and television broadcasting and communications equipment (e.g., cellular telephones). Medical equipment and supplies. Sporting and athletic goods. Signs and advertising specialties. Boat and ship building. Marinas, including boat repair yards. |

¹ Regulated entities means area source facilities that use MeCl to strip paint or apply surface coatings to these parts or products.

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

In addition to being available in the docket for this action, an electronic copy of this proposed action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/stationary-sources-air-pollution/paint-stripping-and-miscellaneous-surface-coating-operations>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

The proposed changes to the CFR that would be necessary to incorporate the changes proposed in this action are set out in an attachment to the memorandum titled *Proposed Regulation Edits for 40 CFR part 63, subpart HHHHHH*, available in the docket for this action (Docket ID No. EPA-HQ-OAR-2021-0016). The document includes the specific proposed amendatory language for revising the CFR and, for the convenience of interested parties, a redline version of the regulation. Following signature by the EPA Administrator, the EPA will also post a copy of this memorandum and the attachments to <https://www.epa.gov/>

stationary-sources-air-pollution/paint-stripping-and-miscellaneous-surface-coating-operations.

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112(d)(6) requires the EPA to review standards promulgated under CAA section 112(d) and revise them “as necessary (taking into account developments in practices, processes, and control technologies)” no less often than every 8 years following promulgation of those standards. This is referred to as a “technology review” and is required for all standards established under CAA section 112(d) including generally available control technology (GACT) standards that apply to area sources.¹ This action constitutes the 112(d)(6) technology review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources area source NESHAP.

Several additional CAA sections are relevant to this action as they specifically address regulation of hazardous air pollutant emissions from area sources. Collectively, CAA sections 112(c)(3), (d)(5), and (k)(3) are the basis of the Area Source Program under the

Urban Air Toxics Strategy, which provides the framework for regulation of area sources under CAA section 112.

Section 112(k)(3)(B) of the CAA requires the EPA to identify at least 30 HAP that pose the greatest potential health threat in urban areas with a primary goal of achieving a 75-percent reduction in cancer incidence attributable to HAP emitted from stationary sources. As discussed in the Integrated Urban Air Toxics Strategy (64 FR 38706, 38715, July 19, 1999), the EPA identified 30 HAP emitted from area sources that pose the greatest potential health threat in urban areas, and these HAP are commonly referred to as the “30 urban HAP.”

Section 112(c)(3), in turn, requires the EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. The EPA implemented these requirements through the Integrated Urban Air Toxics Strategy by identifying and setting standards for categories of area sources including the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories that are addressed in this action.

CAA section 112(d)(5) provides that for area source categories, in lieu of

setting maximum achievable control technology (MACT) standards (which are generally required for major source categories), the EPA may elect to promulgate standards or requirements for area sources “which provide for the use of generally available control technology or management practices [GACT] by such sources to reduce emissions of hazardous air pollutants.” In developing such standards, the EPA evaluates the control technologies and management practices that reduce HAP emissions that are generally available for each area source category. Consistent with the legislative history, we can consider costs and economic impacts in determining what constitutes GACT.

GACT standards were set for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories in 2008. As noted above, this proposed action presents the required CAA 112(d)(6) technology review for those source categories.

B. What are the source categories and how does the current NESHAP regulate their HAP emissions?

1. Source Category Descriptions

The NESHAP for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories was promulgated on January 9, 2008 (73 FR 1738), and is codified at 40 CFR 63, subpart HHHHHH. Technical corrections were promulgated on February 13, 2008 (73 FR 8408).

The sources that are affected by 40 CFR part 63, subpart HHHHHH, and would be affected by the proposed amendments are area sources engaged in paint stripping using MeCl, and/or engaged in coating of miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic, or motor vehicle or mobile equipment refinishing.

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

Surface coating operations are those that involve the application of coatings at area sources to (1) miscellaneous parts and/or products made of metal or plastic, or combinations of metal and plastic; or (2) motor vehicles and mobile equipment (e.g., heavy duty-trucks, buses, construction equipment, self-propelled vehicles and equipment that may be drawn and/or driven on a roadway), hereinafter referred to as autobody and mobile equipment refinishing.

The NESHAP defines a “coating” as “a material spray-applied to a substrate for decorative, protective, or functional purposes. For the purposes of this subpart, coating does not include the following materials: (1) Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or any combination of these substances. (2) Paper film or plastic film that may be pre-coated with an adhesive by the film manufacturer. (3) Adhesives, sealants, maskants, or caulking materials. (4) Temporary protective coatings, lubricants, or surface preparation materials. (5) In-mold coatings that are spray-applied in the manufacture of reinforced plastic composite parts.” (40 CFR 63.11180).

The NESHAP does not apply to paint stripping or surface coating operations that are specifically covered under another area source NESHAP, and does not apply to paint stripping or surface coating operations that meet any of the following:

- Paint stripping or surface coating performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any such state), the National Aeronautics and Space Administration, or the National Nuclear Security Administration.
- Paint stripping or surface coating of military munitions manufactured by or for the Armed Forces of the United States (including the Coast Guard and the National Guard of any such state) or equipment directly and exclusively used for the purposes of transporting military munitions.
- Paint stripping or surface coating performed by individuals on their personal vehicles, possessions, or property, either as a hobby or for maintenance of their personal vehicles, possessions, or property. The NESHAP also does not apply when these operations are performed by individuals for others without compensation. An individual who spray applies surface coating to more than two motor vehicles or pieces of mobile equipment per year is subject to the requirements in this

subpart that pertain to motor vehicle and mobile equipment surface coating regardless of whether compensation is received.

- Paint stripping or surface coating for research and laboratory activities, for quality control activities, or for activities that are covered under another area source NESHAP.

Based on our search of the National Emission Inventory (NEI) (www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei) and the EPA’s Enforcement and Compliance History Online (ECHO) database (echo.epa.gov), we estimate that at least 3,000 facilities are subject to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP. A list of facilities subject to the NESHAP found in the ECHO database is included in a file, titled *Facility List for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources*, which is available in the docket for this action. However, these data are not likely to be comprehensive for these source categories because not all states submit data to ECHO for smaller sources such as these. We also observed that some states with large populations did not have as many facilities in the ECHO database as expected based on population, indicating inconsistent reporting of these facilities among states.

2. HAP Emission Sources

This section describes the emission sources for paint stripping and miscellaneous coating operations.

Paint Stripping Operations

The HAP for which the EPA listed this source category pursuant to CAA section 112(c)(3) is the MeCl contained in paint stripper formulations. The primary source of the MeCl emissions in this source category comes from evaporative losses during the use and storage of MeCl-containing paint strippers.

Surface Coating Operations

The EPA listed the area source surface coating operations categories pursuant to CAA section 112(c)(3) based on emissions of cadmium, chromium, lead, manganese, and nickel compounds. These target HAP emissions from miscellaneous coating operations are the heavy metals contained in the coatings (e.g., in corrosion-resistant primers and as the pigments in topcoats). The target HAP compounds are emitted as the coatings are atomized during spray application. A substantial fraction of coating that is atomized does not reach the part and becomes what is termed

“overspray.” The fraction that becomes overspray depends on many variables, but two of the most important are the type of spray equipment being used and the skill of the painter. Some overspray lands on surfaces of the spray booth and the masking paper that is usually placed around the surface being sprayed, but the rest of the overspray is drawn into the spray booth exhaust system. If the spray booth has filters, most of the overspray is captured by the filters; otherwise, it is exhausted to the atmosphere.

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

3. Current NESHAP Requirements for Control of HAP

Paint Stripping Operations

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

In addition to the management practices, sources that use more than one ton of MeCl, per year, must develop and implement a MeCl minimization plan consisting of a written plan with the criteria to evaluate the necessity of MeCl in the stripping operations and management techniques to minimize MeCl emissions when it is needed in the paint stripping operation.

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

The management practices required to be contained in the plan include optimizing stripper application conditions, reducing exposure of stripper to the air, and practicing proper storage and disposal of materials

containing MeCl. Sources are required to submit the plan to their delegated authority, keep a written copy of the plan on site and post a placard or sign outlining the evaluation criteria and management techniques in each area where MeCl-containing paint stripping operations occur. They are also required to review the plan annually and update it based on the experiences of the previous year or the availability of new methods of stripping, and to keep a record of the review and changes made to the plan on file. Sources must maintain copies of the specified records for a period of at least five years after the date of each record.

Surface Coating Operations

All motor vehicle and mobile equipment surface coating operations and those miscellaneous surface coating operations that spray-apply coatings containing the target HAP must apply the coatings with a high volume, low pressure (HVLP) spray gun, electrostatic spray gun, airless spray gun, air-assisted airless spray gun, or a gun demonstrated to be equal in transfer efficiency to an HVLP spray gun. All spray-applied coatings must be applied in a prep station or spray booth. For motor vehicle and mobile equipment surface coating, prep stations and spray booths that are large enough to hold a complete vehicle must have four complete side walls or curtains and a complete roof. For motor vehicle and mobile equipment subassemblies and for miscellaneous surface coating, coatings must be spray applied in a booth with a full roof and at least three walls or side curtains. Openings are allowed in the sidewalls and roof of booths used for miscellaneous surface coating to allow for parts conveyors, if needed. The exhaust from the prep station or spray booth must be fitted with filters demonstrated to achieve at least 98 percent capture efficiency of paint overspray.

Additionally, sources are required to demonstrate that (1) all painters that spray-apply coatings are certified as having completed operator training to improve coating transfer efficiency and minimize overspray and (2) that no spray gun cleaning is performed by spraying solvent through the gun creating an atomized mist (*i.e.*, spray guns are cleaned in an enclosed spray gun cleaner or by cleaning the disassembled gun parts by hand). Each painter must be certified as having completed classroom and hands-on training in the proper selection, mixing, and application of coatings, and must complete refresher training at least once every 5 years. The initial and refresher

training must address the following topics:

- Spray gun equipment selection, set up, and operation, including measuring coating viscosity, selecting the proper fluid tip or nozzle, and achieving the proper spray pattern, air pressure and volume, and fluid delivery rate.
- Spray technique for different types of coatings to improve transfer efficiency and minimize coating usage and overspray, including maintaining the correct spray gun distance and angle to the part, using proper banding and overlap, and reducing lead and lag spraying at the beginning and end of each stroke.
- Routine spray booth and filter maintenance, including filter selection and installation.
- Environmental compliance with the requirements of this subpart.

C. What data collection activities were conducted to support this action?

For this technology review, we used information from the EPA’s ECHO database to identify facilities subject to the NESHAP. The ECHO database provides integrated compliance and enforcement information for approximately 800,000 regulated facilities nationwide. We supplemented the ECHO database information with data provided by EPA Region 4. Using the feature in ECHO to search by NESHAP subpart, the EPA identified approximately 3,000 facilities as subject to this NESHAP. However, these data are not likely to be comprehensive for these source categories because not all states submit data to ECHO for smaller sources such as these, and we also observed that some states with large populations did not have as many facilities in the ECHO database as expected based on population. The compliance history data in ECHO does not contain detailed information on non-compliance and enforcement actions involving the facilities subject to 40 CFR part 63, subpart HHHHHH, that could be used to identify developments in practices, processes, and control technologies, or other rule changes that are needed.

Also, for the technology review, we collected information from the reasonably available control technology (RACT), best available control technology (BACT), and lowest achievable emission rate (LAER) determinations in the EPA’s RACT/BACT/LAER Clearinghouse (RBLCL).¹ This database contains case-specific information on air pollution

¹ <https://www.epa.gov/catc/ractbactlaer-clearinghouse-rblcl-basic-information>.

technologies that have been required to reduce the emissions of air pollutants from stationary sources. Under the EPA's New Source Review (NSR) program, an NSR permit must be obtained if a facility is planning new construction that increases the air emissions of any regulated NSR pollutant at or above 100 or 250 tpy (or a lower threshold depending upon nonattainment severity) or a modification that results in a significant emissions increase and a significant net emissions increase of any regulated NSR pollutant ("significant" emissions increase is defined in the NSR regulations and is pollutant-specific, ranging from less than 1 pound (lb) to 100 tpy of the applicable regulated NSR pollutant). This central database promotes the sharing of information among permitting agencies and aids in case-by-case determinations for NSR permits. We examined information contained in the RBLC to determine what technologies are currently used for these surface coating and paint stripping operations to reduce air emissions.

Additional information about these data collection activities for the technology review is contained in the memoranda titled *Technology Review for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources*, July 2021, available in the docket for this action.

The EPA also performed a literature search for information on alternatives to coatings that contain the target metal HAP and alternative processes to reduce emissions from the application of these coatings, and for alternatives to chemical paint stripping using MeCl-containing paint stripping materials.

The EPA also reviewed data collected as part of the National Small Business Environmental Assistance Program (SBEAP) (<https://nationalsbeap.org/>). This program and the data collected are used to assist companies in complying with 40 CFR part 63, subpart HHHHHH. These data include lists of coatings provided by the coating manufacturers that are commonly used in autobody and mobile equipment refinishing operations. The lists indicate whether each coating contains the target HAP, and whether substitute coatings are available that do not contain the target HAP. The EPA also contacted coatings suppliers, through state members of the SBEAP, to collect information on alternative coatings that do not contain the target HAP and current best practices to minimize emissions during coating application. The EPA also reached out to industry representatives for input regarding developments in technology and practices that have

occurred since promulgation of the original rule.

D. What other relevant background information and data are available?

As part of the technology review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP source categories, we reviewed information available in the American Coatings Association's (ACA) *Industry Market Analysis*' 9th Edition (2014–2019).² The *ACA Industry Market Analysis* provided information on trends in coatings technology that can affect emissions from the source categories. Additional details regarding our review of this information source are contained in the *Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Technology Review Memo*, available in the docket for this action.

E. How does the EPA perform the technology review?

Our technology review focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the GACT standards were promulgated. Where we identify such developments, we analyze their technical feasibility, estimated costs, energy implications, and non-air environmental impacts. We also consider the emission reductions associated with applying each development. This analysis informs our decision of whether it is "necessary" to revise the emissions standards. In addition, we consider the appropriateness of applying controls to new sources versus retrofitting existing sources. For this exercise, we consider any of the following to be a "development":

- Any add-on control technology or other equipment that was not identified and considered during development of the original GACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original GACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original GACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during

development of the original GACT standards; and

- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original GACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we originally developed the NESHAP, we review a variety of data sources in our investigation of potential practices, processes, or controls that may have not been considered during development of the NESHAP. Among the sources we reviewed were the NESHAP technology reviews for various industries that were completed after the GACT standard being reviewed in this action (e.g., NESHAP for Aerospace Manufacturing and Rework (40 CFR part 63, subpart GG), NESHAP for Surface Coating of Metal Parts and Products (40 CFR part 63, subpart MMM), and NESHAP for Surface Coating of Plastic Parts and Products (40 CFR 63, subpart PPPP)). We also reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes, and control technologies considered in these efforts that could be applied to emission sources in the Paint Stripping and Surface Coating source categories, as well as the costs, non-air impacts, and energy implications associated with the use of these technologies. Finally, we reviewed information from other sources, such as state and/or local permitting agency databases and industry-specific market analyses and trade journals, to research advancements in add-on controls and lower HAP technology for coatings. For a more detailed discussion of our methods for performing these technology reviews, refer to the *Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Technology Review Memo*, available in the docket for this action.

III. Analytical Results and Proposed Decisions

A. What are the results and proposed decisions based on our technology review, and what is the rationale for those decisions?

As described in sections II.C, D, and E of this preamble, our technology review focused on identifying developments in practices, processes, and control technologies for the three source categories. The EPA reviewed various information sources regarding emission sources that are currently

² Prepared for the ACA, Washington, DC, by The ChemQuest Group, Inc., Cincinnati, Ohio. 2015.

regulated by the NESHAP to support the technology review. The information sources included the following: The RBLC; state regulations; facility operating permits; other NESHAP-related regulatory actions, including technology reviews for other surface coating NESHAPs promulgated after this NESHAP was finalized in 2008; and industry information. The primary emission sources for the technology review included the following: The spray applied coating operations and paint stripping operations using MeCl containing paint stripping materials.

Based on our review, we did not identify any add-on control technologies, process equipment, management practices or procedures that were not previously considered during development of the 2008 Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, and we did not identify any new or improved add-on control technologies that would result in additional emission reductions. A brief summary of the EPA's findings in conducting the technology review of Paint Stripping and Surface Coating operations follows. For a detailed discussion of the EPA's findings, refer to the memorandum, *Technology Review for Paint Stripping and Miscellaneous Surface Coating Source Categories*, in the docket for this action.

During the development of the 2008 Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, management practices were determined for new and existing area sources performing spray applied coating operations using coatings containing the target HAP and for paint stripping operations using MeCl containing materials. The development of the surface coating management practices was based on the following:

- Numerous visits to area source surface coating operations;
- The surface coating industry's use of high efficiency coatings spray equipment, filtered spray booths, and enclosed spray gun cleaners; and
- The EPA's review of available operator training programs.

The paint stripping management practices were based on a detailed study of the paint stripping industry³ and

³ *Source Reduction and Recycling of Halogenated Solvents in Paint Stripping*—Technical Support Document—A Report on Research Performed by the Source Reduction Research Partnership for the Metropolitan Water District and the Environmental Defense Fund. Prepared By Jacobs Engineering Group Inc. Pasadena, CA. 1990.

visits to numerous paint stripping operations.

Paint Stripping Operations

Our search of the RBLC database for improvements in paint stripping technologies provided results for two facilities with permit dates of 2008 or later. Facilities reported the use of VOC emission limits, and work practices in compliance with the Aerospace NESHAP.

We also reviewed the results of the technology review for the Aerospace Manufacturing and Rework Facilities NESHAP (40 CFR part 63, subpart GG). The Aerospace NESHAP regulates emissions from depainting operations (40 CFR 63.746) and limits the amount of organic HAP in chemical strippers used per aircraft, and also has provisions to limit inorganic HAP emissions from non-chemical (e.g., abrasive blasting) depainting operations. As part of that technology review for chemical depainting, the EPA examined Washington State's records of permits for Aerospace Manufacturing and Rework Facilities and identified a 2013 PSD permit amendment that requires the VOC vapor pressure of cleaning solvents and chemical strippers used in depainting operations to be less than 45 mm Hg. It should be noted that the Aerospace NESHAP does not prescribe vapor pressure limits to chemical depainting strippers, but instead has capture and control and volume usage limits for chemical depainting operations that use HAP containing chemical strippers. Otherwise, facilities must use non-HAP chemical strippers. Therefore, the EPA determined that the Aerospace NESHAP was at least as stringent as the Washington State PSD permit requirements. The technology review for the Aerospace NESHAP did not identify any developments in processes or control technologies to reduce organic HAP emissions from chemical depainting operations. (80 FR 8392, February 17, 2015). The Idaho state general permit program for automobile body shops was more restrictive, such that Idaho will not issue a general permit to body shops that are using MeCl as a paint remover.⁴ However, the 2008 Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP did consider numerical emission limits but determined that they would not be feasible due to the variability in

⁴ Idaho Department of Environmental Quality. *Streamlined air permitting processes for qualifying automotive coating operations*. Revision 6; April 2017. (Accessed June 2021 <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/5194>).

operational parameters and variety of work being performed. Similar to the Aerospace NESHAP, the 2008 Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP decided to not limit or ban the use of MeCl-based paint strippers, determining instead to set management practices that reduced emissions and encourage the substitution of alternative stripping technologies where they could feasibly be employed. All of these control technologies were in use by the paint stripping industry during development of the NESHAP or already were considered in the development of the NESHAP. In this review, for purposes of these area source GACT standards, we have again determined that these measures could not feasibly be broadly applied to the industry. Therefore, we concluded that the results of the search did not result in any broadly applied improvements in add-on control technology or other equipment.

In conclusion, for the Paint Stripping source category, we did not identify developments in practices, processes, or control technologies broadly applied to the industry during review of the RBLC, the state rules, and subsequent NESHAP that were not already identified and considered during the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP development. We are maintaining our approach of setting widely applicable control technology and management practice standards, while encouraging emissions reductions, such as from product reformulations, where appropriate. The current standards effectively reduce emissions while encouraging sources to further reduce emissions. We identified no improvements broadly applied to the industry or changes in costs. We do not consider the practices we found to be developments for the purposes of this technology review, and continue to determine that they do not warrant revisions to the current emission standards.

Surface Coating Operations

For this technology review, we consulted state rules and operating permits. California has an existing surface coating rule, Airborne Toxic Control Measure for Emissions of Hexavalent Chromium and Cadmium from Motor Vehicle and Mobile Equipment Coatings (ATCM),⁵ that prohibits the use, possession, sale,

⁵ California Air Resources Board. *Automotive Refinishing*. <https://ww2.arb.ca.gov/our-work/programs/coatings/automotive-refinishing>.

supply, or manufacture for sale in California of any motor vehicle or mobile equipment coating that contains hexavalent chromium or cadmium.⁶ While increased compliance costs were expected to raise the prices of coating materials for automotive body paint shops, the California Air Resources Board predicted that these shops would pass the material price increase to consumers, so the impacts to auto body shops would be negligible.⁷ In the original NESHAP, the EPA chose not to prohibit the use of coatings that contain any of the heavy metals or target HAP for these source categories. We determined that a nationwide prohibition would impose unreasonable burden on the industry and could force facilities out of business due to a lack of alternative materials that could address the performance criteria (e.g., corrosion protection) that may be used in all environments across the United States.⁸ For this technology review, we determined that vendors representing a large market share in the sectors relevant to the NESHAP, specifically coating manufacturers that supply automobile and mobile equipment refinishing coatings, have modified product lines such that non-target HAP products are more readily available. However, in this technology review we still determined that a nationwide prohibition would impose unreasonable burden on the industry, and that other approaches are better suited to reduce emissions. Sources carry out a wide variety of surface coating operations, with different performance criteria, and target HAP-free alternatives would not be viable substitutes for many purposes. Furthermore, as demonstrated by wider adoption of target HAP-free products, the industry is already reducing the usage of target-HAP containing coatings as available, and within their operating requirements, alongside the emission reductions already achieved by

implementation of the NESHAP. In addition to the ATCM outlined above, California's South Coast Air Quality Management District (AQMD) adopted a rule for Spraying Operations Using Coatings Containing Chromium (Rule 1469.1) in March 2005.⁹ This rule includes requirements for spray transfer efficiency, spray booth operation, housekeeping, monitoring, reporting, and recordkeeping, and in June 2021, South Coast AQMD proposed an amended rule. These amendments aim to further reduce emissions of hexavalent chromium from spraying operations as well as operations such as dried chromate coating removal. They also minimize the accumulation of materials that may contain chromates outside of spray booths that may lead to fugitive emissions.¹⁰ However, these practices were already identified during development of the 2008 Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, and as stated above, we do not consider the burden imposed by these practices to be warranted for requirements that would apply to these disparate industries and applications. We are maintaining our approach of setting widely applicable control technology and management practice standards, while encouraging emissions reductions, such as from product reformulations, where appropriate. The current standards effectively reduce emissions while encouraging sources to further reduce emissions. Therefore, we do not consider these practices to constitute new or improved add-on control technologies that would result in additional emission reductions.

Under the authority of the Federal Minor Source Review Program (40 CFR 49.151), the EPA issued a permit by rule for new or modified true minor source automobile body repair and miscellaneous surface coating operations in Indian Country (40 CFR 49.162). This permit by rule addresses VOC emissions, but does not address inorganic HAP emissions and does not address paint stripping operations. The permit by rule mirrors the requirements in 40 CFR part 63, subpart HHHHHH, for operator training, spray booths and spray booth filters, and high-efficiency

spray guns, but differs in that the exemption for spray guns with a cup capacity less than 3.0 fluid ounces does not apply in serious, severe, and extreme ozone nonattainment areas; instead, in those areas all spray-applied coating operations must be applied with an HVLP spray gun, low volume low pressure (LVLP) spray gun, or air brush spray operation, or with an equivalent spray technology that has been demonstrated by the spray gun manufacturer to achieve a transfer efficiency comparable to that of an HVLP spray gun. The EPA examined 10 state permitting examples for the permit by rule. Three of the 10 state general permit programs for automobile body shops include the requirements of 40 CFR part 63, subpart HHHHHH, but some individual states are more restrictive.¹¹ These issues were considered during development of the 2008 Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP and do not represent new or improved add-on control technologies that would result in additional emission reductions.

The RBLC database search for improvements in surface coating technologies provided results for 10 facilities with permit dates of 2011 or later (the compliance date for existing sources in 40 CFR part 63, subpart HHHHHH, is January 10, 2011). Facilities reported the use of high-efficiency application methods (e.g., robotic application, electrostatic spray), good work practices, and regenerative thermal oxidizers (RTO) with an established reduction and exhaust gas VOC concentration limits (i.e., 3-hour average of 95 percent removal and 12 parts per million by volume). However, RTO are used to destroy organic compounds and would not be effective at reducing emissions of metal target HAP from spray applied coating operations. All of these control technologies were in use by the surface coating industry during development of the NESHAP and already were considered in the development of the NESHAP. We identified no improvements or changes in costs. Therefore, we concluded that the results of the RBLC search did not result in any improvements in add-on control technology or other equipment.

⁶ California Code of Regulations. *Hexavalent Chromium and Cadmium Airborne Toxic Control Measure—Motor Vehicle and Mobile Equipment Coatings*. 17 CCR § 93112. (Accessed April 2021 [https://govt.westlaw.com/calregs/Document/I317A88D0D60811DE88AEDDE29ED1DC0A?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I317A88D0D60811DE88AEDDE29ED1DC0A?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))).

⁷ California Air Resources Board. *Initial Statement of Reasons for Proposed Rulemaking: Airborne Toxic Control Measure for Emissions of Hexavalent Chromium and Cadmium from Motor Vehicle and Mobile Equipment Coatings*, p. V-1. (Accessed April 2021 https://ww2.arb.ca.gov/sites/default/files/2020-12/ISOR_auto_finish_9-01.pdf).

⁸ US EPA. (September 2007). Proposed rule: *National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources*. 72 FR 52967.

⁹ South Coast Air Quality Management District. *Spraying Operations Using Coatings Containing Chromium*. (Accessed June 2021 <http://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1469-1.pdf>).

¹⁰ South Coast Air Quality Management District. Draft Staff Report: *Proposed Amended Rule 1469.1—Spraying Operations Using Coatings Containing Chromium*. (Accessed June 2021 http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1469.1/par1469-1_dsr_040621.pdf?sfvrsn=6).

¹¹ U.S. Environmental Protection Agency. (February 2017). *Background Document: Air Quality Permit by Rule for New or Modified True Minor Source Auto Body Repair and Miscellaneous Surface Coating Operations in Indian Country*. (Accessed April 2021 <https://www.epa.gov/sites/production/files/2016-05/documents/autobodybackgrounddocument032315final.pdf>).

We also reviewed the results of the technology review for the Aerospace Manufacturing and Rework Facilities NESHAP (40 CFR part 63, subpart GG). The Aerospace NESHAP regulates emissions of inorganic HAP from the spray application of primers and topcoats (40 CFR 63.745) by requiring the spray application of coatings containing inorganic HAP to be performed in a spray booth or similar enclosure that is exhausted through a filter. The technology review for the Aerospace NESHAP did not identify any developments in processes or control technologies to reduce inorganic HAP emissions from primer and topcoat operations. (80 FR 8392, February 17, 2015)

In conclusion, for the Surface Coating source categories, we did not identify developments in practices, processes, or control technologies during review of the RBLC, the state rules, and subsequent NESHAP that were not already identified and considered during the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP development. We identified no improvements or changes in costs. We do not consider the practices that we found to be developments for the purposes of this technology review, and continue to determine that they do not warrant revisions to the current emission standards.

B. What other actions are we proposing, and what is the rationale for those actions?

1. Electronic Reporting Requirements

The EPA is proposing that owners and operators of paint stripping and surface coating facilities submit electronic copies of initial notifications required in 40 CFR 63.9(b) and 63.11175(a), notifications of compliance status required in 40 CFR 63.9(h) and 63.11175(b), the annual notification of changes report required in 40 CFR 63.11176(a), and the report required in 40 CFR 63.11176(b) through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). For further information regarding the electronic data submission process, please refer to the memorandum titled *Electronic Reporting for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, available in the docket for this action. No specific form is necessary for the initial notifications required in 40 CFR 63.9(b) and 63.11175(a), notifications of compliance status required in 40 CFR

63.9(h) and 63.11175(b), the annual notification of changes report required in 40 CFR 63.11176(a), and the report required in 40 CFR 63.11176(b). The notifications will be required to be submitted via CEDRI in portable document format (PDF) files.

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. The situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI which precludes an owner or operator from accessing the system and submitting required reports is addressed in 40 CFR 63.9(b), notifications of compliance status required in 40 CFR 63.9(h), the annual notification of changes report required in 40 CFR 63.11176(a), and the MeCl report required in 40 CFR 63.11176(b). The situation where an extension may be warranted due to a *force majeure* event, which 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 an owner or operator from complying with the requirement to submit a report electronically as required by this rule is addressed in 40 CFR 63.3120(g). Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

The electronic submittal of the reports addressed in this proposed rulemaking has several benefits: Electronic submittal will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based,

manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan¹² to implement Executive Order 13563 and is in keeping with the EPA's agency-wide policy¹³ developed in response to the White House's Digital Government Strategy.¹⁴ For more information on the benefits of electronic reporting, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, available in the docket for this action, Docket ID No. EPA-OAR-2021-0016.

2. Rule Clarifications and Other Changes, Including Incorporation by Reference

We are proposing plain language clarifications and revisions to better reflect regulatory intent. We also are proposing other changes, including updating references to equivalent test methods, making technical and editorial revisions, incorporation by reference (IBR) of alternative test methods, and simplifying the petition for exemption process. Our analyses and proposed changes related to these issues are discussed in the sections below.

a. Coating HAP Content Definition

The EPA is proposing to clarify that the definition of coatings that do not contain the target HAP is based on the HAP content of the coating as applied, not on the HAP content of the coating components as purchased from the coating supplier. However, coatings that meet the definition of coatings that do not contain the target HAP based on the HAP content as purchased will also meet the definition based on the HAP content as applied.

b. Spray Gun Cup Liners

The EPA is proposing to clarify that the allowance to use spray guns outside

¹² EPA's *Final Plan for Periodic Retrospective Reviews*, August 2011. Available at: <https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154>.

¹³ *E-Reporting Policy Statement for EPA Regulations*, September 2013. Available at: <https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf>.

¹⁴ *Digital Government: Building a 21st Century Platform to Better Serve the American People*, May 2012. Available at: <https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html>.

of a spray booth is based on the volume of the spray gun paint cup liner and not the volume of the paint cup, in those spray guns that use a disposable cup liner.

c. Submarines and Tanks Applicability

The EPA is proposing to clarify in this preamble that the surface coating and paint stripping of certain types of military equipment at area sources, such as military submarines (as opposed to those used for scientific research, for example) and military tanks is potentially subject to 40 CFR part 63, subpart HHHHHH, unless the surface coating or paint stripping is performed on site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any such state), the National Aeronautics and Space Administration, or the National Nuclear Security Administration. Surface coating of this type of military equipment at original equipment manufacturers or offsite at a contractor's facility would not be covered by the provisions in 40 CFR 63.11169(d)(1), and would be subject to the requirements of 40 CFR part 63, subpart HHHHHH.

d. Circumvention of Paint Cup Capacity Intent

The EPA is proposing to clarify that the exclusion of spray guns with paint cup capacities equal to or less than 3.0 fluid ounces from the definition of spray-applied coatings operations was not intended to constitute an exemption from the NESHAP but was a threshold by which rule applicability for potentially regulated sources may be determined. This was due to the type and scope of operations which were to be regulated under the NESHAP. This clarification is consistent with, and would ensure that the rule clearly reflects, the position provided in a letter issued by the Office of Environmental Compliance and Assurance (OECA) stating that the EPA may find that persons who repeatedly refill and use a three-ounce cup, as a means of avoiding rule applicability, are attempting to circumvent the NESHAP. The EPA accordingly reserves the right to bring enforcement actions against any person whose action equates to rule circumvention.

e. OSHA Carcinogenic Content

The EPA is proposing to remove references to Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4). The reference to OSHA-defined carcinogens as specified

in 29 CFR 1910.1200(d)(4) was intended to specify the mass percent threshold above which compounds must be counted in identifying whether coatings are considered "target HAP containing" as defined in 40 CFR 63.11180. Target HAP compounds that are carcinogens must be counted if they are present at 0.1 percent by mass or greater and all other target HAP if they are present at 1.0 percent by mass or greater. We are proposing to remove this reference because 29 CFR 1910.1200(d)(4) has been amended and no longer readily defines which compounds are carcinogens. We are proposing to replace these references to OSHA-defined carcinogens and 29 CFR 1910.1200(d)(4) with a list of those target HAP that must be counted if they are present at 0.1 percent by mass or greater. All other target HAP must be counted if they are present at 1.0 percent or greater by mass.

f. Non-HAP Solvent Language

The EPA is proposing to remove the definition of "non-HAP solvent" from 40 CFR 63.11180 because there are no requirements to use non-HAP solvents and the definition has no other use in the rule.

g. Filter Test Method

The EPA is proposing to update the spray booth filter test method which was previously incorporated by reference to the most recent American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) method. The rule currently cites ASHRAE Method 52.1, "Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter, June 4, 1992. This method was retired in January 2009, and replaced by ANSI/ASHRAE Standard 52.2-2017 Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size. The EPA is also proposing to include EPA Method 319—Determination of Filtration Efficiency for Paint Overspray Arrestors (Appendix A to 40 CFR part 63), as an alternative to ANSI/ASHRAE Standard 52.2-2017. This is the same method referenced in the NESHAP for Aerospace Manufacturing and Rework (40 CFR part 63, subpart GG) to test paint spray booth filters used to meet the requirements to limit hexavalent chromium emissions. As discussed in section VI.I of this preamble, these methods measure paint booth filter efficiency to measure the capture efficiency of paint overspray arrestors with spray-applied coatings. The ANSI/ASHRAE standard is available from the

American Society of Heating, Refrigerating and Air-Conditioning Engineers 1791 Tullie Circle NE, Atlanta, GA 30329. See <http://www.ashrae.org>. The EPA Method standard is available in Appendix A to 40 CFR part 63.

h. Petition for Exemption Process

The EPA is proposing a simplified petition for exemption process for motor vehicle or mobile equipment surface coating operations that do not spray apply any coatings that contain the target HAP. Currently all such sources are subject to the NESHAP, unless they demonstrate to the satisfaction of the Administrator that they do not spray apply any coatings that contain the target HAP. Due to changes in coatings compositions across the industry, and the burden imposed without commensurate environmental benefit, we propose to allow sources to submit notification to the Administrator that they do not spray apply any coatings that contain the target HAP. Such sources would still be required to retain records that describe the coatings that are spray applied, but that information would not need to be reported—to determine whether that has been demonstrated to the satisfaction of the Administrator. The Administrator would maintain the authority to verify records retained on site, including whether the notification of exemption was sufficiently demonstrated. Sources may still petition for exemption using the existing process if they wish for a formal determination.

3. SSM Requirements

a. Elimination of the SSM Exemption

In its 2008 decision in *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. 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 section 112 standards apply continuously.

We note that the EPA amended the General Provisions in March 2021 to correct the CFR to reflect the court order

in *Sierra Club* vacating the SSM exemptions.¹⁵

Consistent with *Sierra Club v. EPA*, the standards in this rule apply at all times. We are also proposing a revision to Table 1 to subpart HHHHHH of 40 CFR part 63 (*Applicability of General Provisions to Subpart HHHHHH of Part 63*, hereafter referred to as the “General Provisions table to subpart HHHHHH”), as explained in more detail below in section III.B.3.b of this preamble.

In proposing these rule amendments, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods. Startups and shutdowns are part of normal operations for the paint stripping and surface coating operations at area sources. Paint stripping and surface coating operations inherently involve frequent startup and shutdown while carrying out normal duties, and the NESHAP’s emission standards were developed to control emissions in these situations. We have no data indicating that emissions are different during startup or shutdown than during other normal operations, and the current emission standards adequately control emissions during these startup and shutdown periods.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source’s operations. Malfunctions, in contrast, are neither predictable nor routine. Instead malfunctions are, by definition, sudden, infrequent and not reasonably preventable failures of emissions control, process, or monitoring equipment. (40 CFR 63.2) (definition of malfunction). 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. This reading has been upheld as reasonable by the D.C. Circuit in *U.S. Sugar Corp. v. EPA*, 830 F.3d 579, 606–610 (2016).

However, it is unlikely that a malfunction would result in a violation of the standards or significant changes in emissions during paint stripping and surface coating operations at area source facilities. The NESHAP obligates facilities to follow implementation requirements for several stages of GACT or management practices, including application of coatings within a spray booth, using high efficiency spray application equipment, and a variety of other management practices. All

facilities must comply with these management practice standards to minimize target HAP emissions from paint stripping and surface coating operations. These standards are not susceptible to malfunctions that would affect emissions, and if such malfunctions were to occur, the multiple layers of protection still reduce the likelihood that any single point of failure would result in a significant increase in emissions.

In the unlikely event that a source fails to comply with the 40 CFR part 63, subpart HHHHHH as a result of a malfunction event, the EPA will determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The annual notification of changes report required in 40 CFR 63.11176(a) already obligates sources to report deviations from relevant requirements in 40 CFR 63.11173. The EPA will also consider whether the source’s failure to comply with the 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.

In summary, the EPA interpretation of the CAA and, in particular, CAA section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations. *U.S. Sugar Corp. v. EPA*, 830 F.3d 579, 606–610 (D.C. Cir. 2016).

b. Proposed Revisions to the General Provisions Applicability Table

We are proposing to revise the General Provisions table to 40 CFR part 63, subpart HHHHHH (Table 1) entry for 40 CFR 63.6(e)(1)–(2) by changing the “yes” in column 3 to a “no.” Section 63.6(e)(1)(i) describes the general duty

to minimize emissions. Some of the language in that section is not necessary or appropriate in light of the absence of an SSM exemption. We are proposing instead to add general duty regulatory text at 40 CFR 63.11173(h) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. Without an SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA is proposing for 40 CFR 63.11173(h) does not include that language from 40 CFR 63.6(e)(1)(i). Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the absence of an SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.11173(h). We are also proposing to revise the General Provisions table to 40 CFR part 63, subpart HHHHHH (Table 1) entry for 40 CFR 63.6(f)(1) by changing the “yes” in column 3 to a “no.” We have added language to the regulatory text at § 63.11173(h) to specify that the standards apply at all times. Although, consistent with *Sierra Club*, the EPA amended 40 CFR 63.6(f)(1) (and also paragraph (h)(1)) on March 11, 2021, to reflect the court order and correct the CFR to remove the SSM exemption and is proposing to revise the description in column 2 of table 1 to clarify that this rule applies at all times, the second sentence of 40 CFR 63.6(f)(1) contains language that is premised on the existence of an exemption and is inapposite in the absence of the exemption. Thus, rather than cross-referencing 63.6(f)(1), we are adding the language of 63.6(f)(1) that requires compliance with standards at all times to the regulatory text at § 63.11173(h).

C. What compliance dates are we proposing, and what is the rationale for the proposed compliance dates?

The EPA is proposing that affected sources must comply with all of the amendments no later than 180 days after the effective date of the final rule. All affected facilities would have to continue to meet the current requirements of 40 CFR part 63, subpart HHHHHH, until the applicable compliance date of the amended rule. The final action is not expected to be a “major rule” as defined by 5 U.S.C. 804(2), so the effective date of the final rule will be the promulgation date as specified in CAA section 112(d)(10).

¹⁵ 86 FR 13819, March 11, 2021—Court Vacatur of Exemption From Emission Standards During Periods of SSM.

For existing sources, we are proposing electronic reporting requirements that would impact ongoing compliance requirements for 40 CFR part 63, subpart HHHHHH. We are also acknowledging the change to the requirements for SSM that removed the exemption from the requirements to meet the standard during SSM periods. Our experience with similar industries that are required to employ electronic reporting shows that a time period of a minimum of 90 days, and, more typically, 180 days, is generally necessary to successfully accomplish these revisions. Our experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; to evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; and to update their operation, maintenance, and monitoring plan to reflect the revised requirements. Thus, the EPA is proposing that existing affected sources be in compliance with all regulation's revised requirements within 180 days of the regulation's effective date.

We solicit comment on these proposed compliance periods, and we specifically request submission of information from sources in these source categories regarding specific actions that would need to be undertaken to comply with the proposed amended requirements and the time needed to make the adjustments for compliance with any of the revised requirements. We note that information provided may result in changes to the proposed compliance dates.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

Currently, we estimate 39,812 area source facilities are subject to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP and operating in the United States. The affected source under the NESHAP is the collection of all of the items listed in (1) through (6) of this section. Not all affected sources will have all of the items listed in (1) through (6) of this section.

- (1) Mixing rooms and equipment;
- (2) Spray booths, ventilated prep stations, curing ovens, and associated equipment;
- (3) Spray guns and associated equipment;
- (4) Spray gun cleaning equipment;

- (5) Equipment used for storage, handling, recovery, or recycling of cleaning solvent or waste paint; and
- (6) Equipment used for paint stripping at paint stripping facilities using paint strippers containing MeCl.

B. What are the air quality impacts?

Estimated emissions of target HAP and MeCl from the facilities in the Paint Stripping and Surface Coating source categories are not expected to change in any significant way due to this review or its associated amendments.

These proposed amendments acknowledge that all area sources in the source categories must comply with the relevant emission standards at all times, including periods of SSM. We were unable to quantify the emissions that occur during periods of SSM or the specific emissions reductions that would occur as a result of this action.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (e.g., increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. The proposed amendments would have no effect on the energy needs of the affected paint stripping and surface coating facilities and would, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

We estimate that each facility in the source categories will experience costs of approximately \$400. These costs are a combination of the estimated reporting and recordkeeping costs (2 technical hours), and the time to read and understand the rule amendments (2 technical hours).¹⁶ Costs associated with adoption of electronic reporting were estimated as part of the reporting and recordkeeping costs and include time for sources to familiarize themselves with electronic record systems.

For further information on the potential costs, see the memorandum titled *Proposal Economic Impact Analysis for the National Emissions Standards of Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources*, available in the docket for this action.

¹⁶ The labor costs were calculated using the applicable labor rates from the latest version of the Bureau of Labor Statistics (BLS) survey titled National Occupational Employment and Wage Estimates United States located at: https://www.bls.gov/oes/current/oes_nat.htm#00-0000.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision makers about the potential economic consequences of a regulatory action. For the current proposals, the EPA estimated the cost of becoming familiar with the rule, re-evaluating previously developed SSM record systems, and transitioning to electronic reporting. To assess the maximum potential impact, the largest cost expected to be experienced in any one year is compared to the total sales for the ultimate owner of the affected facilities to estimate the total burden for each facility.

For the proposed revisions to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, the total cost is estimated to be approximately \$400 per facility in the first year of the rule. 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.

The EPA also prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. Of the facilities potentially affected by the proposed revisions to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, we estimate that the vast majority are small entities. However, the annualized costs associated with the proposed requirement is from 0.0 to 0.2 percent of annual sales revenue for the ultimate owner of those facilities, well below the 1 percent threshold. Therefore, there are no significant economic impacts on a substantial number of small entities from these proposed amendments.

E. What are the benefits?

As stated above in section IV.B. of this preamble, we were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption.

Because these proposed amendments are not considered economically significant, as defined by Executive Order 12866, we did not monetize the benefits of reducing these emissions. This does not mean that there are no benefits associated with the potential reduction in target HAP and MeCl from this rule.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 directs the EPA to identify the populations of

concern who are most likely to experience unequal burdens from environmental harms; specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994). Additionally, Executive Order 13985 was signed to advance racial equity and support underserved communities through Federal government actions (86 FR 7009, January 20, 2021). The EPA defines environmental justice (EJ) as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies” (<https://www.epa.gov/environmentaljustice>). In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution. To examine the potential for any EJ issues that might be associated with the source categories, we performed a demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. The EPA then compared the data from this analysis to the national average for the demographic indicators.

In the analysis, we evaluated the proximity of minority and low-income groups within the populations that live near facilities. Data limitations preclude a complete analysis. This NESHAP applies to sources in many different industries, often operating as small facilities, and limited location data of subject facilities was available. As described in the technology review memo, available in the docket for this action, and section I.L.C of this preamble, we did conduct searches for available information. However, below results do not account for emission or risk impacts from sources and may not be fully representative of the full distribution of facilities across all locations and populations. This analysis is intended to function as a guide to possible proximity disparities.

Based on the fact that there are over 3,000 facilities in this analysis, and their

proximity to urban centers, the source categories’ minority demographics are higher than the national average while individual facilities for a large number of sites will significantly exceed the national average demographics for every group due to being located in urban locations. The results of the demographic analysis for populations within 5 km of the facilities within the source categories indicate that the minority population (being the total population minus the white population) is higher when compared to the national percentage (49 percent versus 40 percent). These comparisons also hold true for other demographic groups (African American, Other and Multiracial Groups, Hispanics, and people living in linguistic isolation). The African American demographic group shows the highest difference when compared to the national average (17 percent vs 12 percent). The remaining demographics identified above were above the national average by 2 percent. The methodology and the results of the demographic analysis are presented in a technical report, *Technology Review—Analysis of Demographic Factors for Populations Living Near the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Source Categories*, available in this docket for this action (Document ID EPA–HQ–OAR–2021–0016). While demographic analysis shows some population categories that are above the national average, this action is not likely to change levels of emissions near facilities. Based on our technology review, we did not identify any add-on control technologies, process equipment, work practices or procedures that were not previously considered during development of the 2008 Paint Stripping and Miscellaneous Surface Coating at Area Sources NESHAP, and we did not identify developments in practices, processes, or control technologies that would result in additional emission reductions.

V. Request for Comments

The EPA requests comment on all aspects of this proposal, including options for reducing emissions that the EPA may not have considered, as well as information that may improve the Agency’s understanding of this source category and inform future actions. Among other things, the EPA requests comment on any new add-on control technologies, process equipment, management practices or procedures not previously identified, including information on the availability, costs, feasibility, and efficacy of such

measures. The EPA also requests comment on the availability, cost, and applicability of viable substitutes for methylene chloride for automotive refinishing and aerospace parts manufacturing uses. In addition, the EPA requests data or estimates of emissions from facilities in this source category, including information on how emissions, exposures, and potential controls may differ between the different types of sources covered in this rule (such as differences among types or sizes of automotive refinishing sites, and differences between automotive refinishing and aerospace parts manufacturing sites). Section VI of this preamble provides more information on submitting data.

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 Order 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 OMB for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposal have been submitted for approval to OMB under the PRA.

The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2268.07. You can find a copy of the ICR in the docket for this action (Docket ID No. EPA–HQ–OAR–2021–0016), and it is briefly summarized here.

As part of the technology review for the NESHAP, the EPA is not proposing to revise the emission limit requirements. The EPA is acknowledging revisions to the SSM provisions that previously applied to the NESHAP and is proposing the use of electronic data reporting for future notifications and reports. This information is being collected to assure compliance with 40 CFR part 63, subpart HHHHHH.

Respondents/affected entities: Facilities performing paint stripping and surface coating operations at area sources.

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

Estimated number of respondents: In the 3 years after the amendments are final, approximately 39,812 respondents per year would be subject to the

NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 76,388. Years 2 and 3 would have no responses.

Total estimated burden: The average annual burden to the paint stripping and surface coating operations at area source facilities over the 3 years if the amendments are finalized is estimated to be 43,900 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 0 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the facilities is \$5,200,000 in labor costs for the first 3 years after the amendments are final. The average annual capital and operation and maintenance (O&M) costs is –\$27,100. The total average annual Agency cost over the first 3 years after the amendments are final is estimated to be \$0.

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.

C. 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 economic impact associated with the proposed requirements in this action for the affected small entities is described in section IV.D. above.

D. 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 EPA has determined, based on discussions with state, local, and tribal governments during site visits during the original rule development, that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, the proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Some state, local, or tribal governments have paint stripping and/or surface coating operations (e.g., municipal fleet vehicle maintenance garages) that may be subject to the

requirements of this proposed rule. However, we do not believe that any of them are operated by small government entities. Small government entities are expected to contract for refinishing services when these services are needed, rather than doing this work in-house. In addition, total expenditures for all entities to comply with the proposed rule are estimated to be less than \$100 million in any year.

E. Executive Order 13132: Federalism

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.

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

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in any of the industries that would be affected by this action. Thus, Executive Order 13175 does not apply to this action.

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

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.

H. 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.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. We are proposing to amend the Paint Stripping and Miscellaneous Surface Coating Operations at Area Source NESHAP in this action to update references to ASHRAE Method 52.1, “Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter, June 4, 1992, with ANSI/ASHRAE Standard 52.2–2017 Method of Testing General Ventilation

Air-Cleaning Devices for Removal Efficiency by Particle Size. Both methods measure paint booth filter efficiency to measure the capture efficiency of paint overspray arrestors with spray-applied coatings. The EPA is also proposing to include EPA Method 319—Determination of Filtration Efficiency for Paint Overspray Arrestors (Appendix A to 40 CFR part 63), as an alternative to ANSI/ASHRAE Standard 52.2–2017.

The ANSI/ASHRAE standard is available from the American Society of Heating, Refrigerating and Air-Conditioning Engineers 1791 Tullie Circle NE, Atlanta, GA 30329. See www.ashrae.org.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. 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 methodology and the results of the demographic analysis are presented in a technical report, *Technology Review—Analysis of Demographic Factors for Populations Living Near the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Source Categories*, available in this docket for this action (Document ID EPA–HQ–OAR–2021–0016).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Appendix A, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Michael S. Regan,
Administrator.

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