requirements, Sulfur oxides, Volatile organic compounds.

Adam Ortiz,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (c) entitled ''EPA-Approved Regulations in the West Virginia SIP'' is amended by revising the entries for ''Section 45–8–1'', ''Section 45–8–2'', ''Section 45–8–3'', and ''Section 45–8–4'' under the heading ''[45 CSR] Series 8 Ambient Air Quality Standards'' to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
*	*	*	*	*
[45 CSR] Series 8 Ambient Air Quality Standards				
Section 45–8–1	General	6/1/21	11/10/2022, [Insert **Federal Register** citation].	Docket #2022–0528.
Section 45–8–2	Definitions	6/1/21	11/10/2022, [Insert **Federal Register** citation].	Docket #2022–0528.
Section 45–8–3	Adoption of Standards	6/1/21	11/10/2022, [Insert **Federal Register** citation].	Docket #2022–0528.
Section 45–8–4	Inconsistency Between Rules	6/1/21	11/10/2022, [Insert **Federal Register** citation].	Docket #2022–0528.
*	*	*	*	*

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[FR Doc. 2022–24339 Filed 11–9–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2021–0016; FRL–8339–02–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: Final rule.

SUMMARY: This action finalizes the technology review conducted for the paint stripping and miscellaneous surface coating operations area source categories regulated under national emission standards for hazardous air pollutants (NESHAP). These final amendments also address provisions regarding electronic reporting; make miscellaneous clarifying and technical corrections; simplify the petition for exemption process; and clarify requirements for emissions during periods of startup, shutdown, and malfunction (SSM). We are making no revisions to the numerical emission limits based on the technology review.

DATES: This final rule is effective on November 10, 2022. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of November 10, 2022.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2021–0016. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Lisa Sutton, 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) 541–3450; fax number: (919) 541–4991; and email address: *sutton.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of ''we,'' ''us,'' or ''our'' 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:

ASHRAE American Society of Heating, Refrigerating, and Air-Conditioning Engineers
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations

EPA Environmental Protection Agency
FR Federal Register
GACT generally available control technology
HAP hazardous air pollutant(s)
HVLP high-volume, low-pressure
IBR incorporation by reference
km kilometer
MACT maximum achievable control technology
MeCl methylene chloride
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PDF portable document format
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
SSM startup, shutdown, and malfunction
the court United States Court of Appeals for the District of Columbia Circuit
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code

Background information. On November 19, 2021, the EPA proposed revisions to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP based on our technology review (86 FR 66130). In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in *Summary of Public Comments and Responses for the Final Area Source Surface Coating and Paint Stripping Rule,* Docket ID No. EPA–HQ–OAR–2021–0016. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

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

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review and Administrative Reconsideration
II. Background
A. What is the statutory authority for this action?
B. What are the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories and how does the NESHAP regulate HAP emissions from the source categories?
C. What changes did we propose for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories in our November 19, 2021, technology review?
III. What is included in this final rule?
A. What are the final rule amendments based on the technology review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?
B. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction?
C. What other changes have been made to the NESHAP?
D. What are the effective and compliance dates of the standards?
IV. What is the rationale for our final decisions and amendments for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?
A. Technology Review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Source Categories
B. Electronic Reporting
C. SSM Provisions
D. Petition for Exemption
V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
A. What are the affected facilities?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of environmental justice did we conduct?
G. What analysis of children's environmental health did we conduct?
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

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

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

NESHAP-regulated category	NAICS code	Regulated entities [a]
Aerospace Equipment	336413 336414 336415 54171	Aircraft engines, aircraft parts, aerospace ground equipment.
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	Petrochemicals, Industrial Gases, Inorganic Dyes and Pigments, Basic Inorganic and Organic Chemicals, Cyclic Crude and Intermediates, Ethyl Alcohol, Miscellaneous Chemical Production and Preparation.

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

NESHAP-regulated category	NAICS code	Regulated entities [a]
	325193	
	325199	
	325998	
Extruded Aluminum	331318	Extruded aluminum, architectural components, coils, rod, and tubes.
	331524	
	332321	
	332323	
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	Tractors, earth moving machinery.
	333611	
	333618	
Job Shops	332312	Manufacturing industries not elsewhere classified (e.g., bezels, consoles, panels, lenses).
	332722	
	332813	
	332991	
	332999	
	334118	
	336413	
	339999	
Large Trucks and Buses	33612	Large trucks and buses.
	336211	
Metal Buildings	332311	Prefabricated metal buildings, carports, docks, dwellings, greenhouses, panels for buildings.
Metal Containers	33242	Drums, kegs, pails, shipping containers.
	81131	
	322219	
	331513	
	332439	
Metal Pipe and Foundry	331110	Plate, tube, rods, nails, etc.
	331513	
	33121	
	331221	
	331511	
Rail Transportation	33651	Brakes, engines, freight cars, locomotives.
	482111	
Recreational Vehicles and Other Transportation Equipment.	321991	Mobile Homes. Motorcycles, motor homes, semi-trailers, truck trailers. Miscellaneous transportation related equipment and parts. Travel trailer and camper manufacturing.
	3369	
	331318	
	336991	
	336211	
	336112	
	336212	
	336213	
	336214	
	336390	
	336999	
	33635	
	56121	
	8111	
	56211	
Rubber-to- Metal Products	326291	Engine mounts, rubberized tank tread, harmonic balancers.
	326299	
Structural Steel	332311	Joists, railway bridge sections, highway bridge sections.
	332312	
Waste Treatment, Disposal, and Materials Recovery.	562211	Hazardous Waste Treatment and Disposal, Solid Waste Landfill, Solid Waste Combustors and Incinerators, Other Nonhazardous Waste Treatment and Disposal, Materials Recovery.
	562212	
	562213	
	562219	
	562920	
Other Industrial and Commercial	211130	Natural Gas Liquid Extraction.
	311942	Spices and Extracts.
	331313	Alumina Refining.
	337214	Office furniture, except wood. Reupholstery and Furniture Repair.
	811420	
	325211	Plastics Material Synthetic Resins, and Nonvulcanizable Elastomers.
	325510	Paint and Coating Manufacturing.
	32614, 32615	Plastic foam products (e.g., pool floats, wrestling mats, life jackets).

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

NESHAP-regulated category	NAICS code	Regulated entities [a]
	326199	Plastic products not elsewhere classified (e.g., name plates, coin holders, storage boxes, license plate housings, cosmetic caps, cup holders).
	333316	Office machines.
	33422	Radio and television broadcasting and communications equipment (e.g., cellular telephones).
	339112, 339113, 339114, 339115, 339116	Medical equipment and supplies.
	33992	Sporting and athletic goods.
	33995	Signs and advertising specialties.
	336611, 336612	Boat and ship building.
	713930	Marinas, including boat repair yards.

[a] Regulated entities means area source facilities that use methylene chloride (MeCl)-containing paint strippers to strip paint from, or that apply surface coatings to, these parts or products.

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

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

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

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the court) by January 9, 2023. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

II. Background

A. What is the statutory authority for this action?

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. This action constitutes the CAA section 112(d)(6) technology review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources 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 required the EPA to identify at least 30 HAP that posed 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, required 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 were 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 technologies 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 earlier in this document, this final action presents the required CAA 112(d)(6) technology review for those source categories.

B. What are the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories and how does the NESHAP regulate HAP emissions from the source categories?

The EPA promulgated the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP on January 9, 2008 (73 FR 1738). The standards are codified at 40 CFR part 63, subpart HHHHHH. Technical corrections were promulgated on February 13, 2008 (73 FR 8408). The paint stripping and miscellaneous surface coating industry consists of facilities 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 NESHAP's title refers to a single set of emission standards that addresses three source categories: (1) Paint Stripping; (2) Miscellaneous Surface Coating; and (3) Motor Vehicle and Mobile Equipment Surface Coating. All facilities in this source category are area sources. The source categories covered by the GACT standards currently include approximately 40,000 facilities.

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. However, 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.

The primary HAP emitted from paint stripping operations is the MeCl contained in paint stripper formulations. The primary source of the MeCl emissions in the paint stripping source category comes from evaporative losses during the use and storage of MeCl-containing paint strippers.

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 the appropriate air 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 5 years after the date of each record.

The primary HAP emitted from surface coating operations are compounds of cadmium, chromium, lead, manganese, and nickel from heavy metals contained in coatings. 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.

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 spray 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) no spray gun cleaning is performed by spraying solvent through the gun creating an atomized mist (*i.e.,* spray guns must be 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.

Additional detail on the paint stripping and miscellaneous surface coating operations at area sources source categories and NESHAP requirements are provided in the proposal preamble (86 FR 66130, November 19, 2021).

C. What changes did we propose for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories in our November 19, 2021, technology review?

On November 19, 2021, the EPA published a proposed rule in the **Federal Register** for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP, 40 CFR part 63, subpart HHHHHH, that took into consideration the technology review analyses. Based on our technology review, we did not identify any cost-effective developments in practices, processes, or control technologies for the three source categories addressed by the NESHAP. We proposed to amend electronic reporting provisions, simplify the petition for exemption process, clarify requirements addressing emissions during periods of SSM, and make miscellaneous clarifying and technical corrections.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the technology review provisions of CAA section 112 for the three source categories addressed by the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP. This action finalizes other changes to the NESHAP, by adding electronic reporting provisions, simplifying the petition for exemption process, clarifying requirements for addressing emissions during periods of SSM, and making miscellaneous clarifying and technical corrections.

A. What are the final rule amendments based on the technology review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the GACT standards for these source categories. Therefore, we are not amending any emission standards pursuant to our review under CAA section 112(d)(6). We are, however, amending other provisions of the NESHAP, to add requirements for electronic submission of reports, simplify the petition for exemption process, clarify requirements addressing SSM, and make miscellaneous clarifying and technical corrections.

B. What are the final rule amendments addressing emissions during periods of startup, shutdown, and malfunction?

We are finalizing the proposed amendments to the Area Source Paint Stripping and Miscellaneous Surface Coating NESHAP to remove and revise provisions related to SSM. 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. With the issuance of the mandate in *Sierra Club* v. *EPA,* 40 CFR 63.6(f)(1) and (h)(1) are null and void. The EPA amended 40 CFR 63.6(f)(1) and (h)(1)) on March 11, 2021, to reflect the court order and correct the CFR to remove the SSM exemption. We are eliminating any cross-references to the vacated provisions in the regulatory language, including Table 1 to subpart HHHHHH of part 63 (General Provisions applicability table). We have also revised Table 1 to subpart HHHHHH of part 63 in several respects as is explained in more detail here. For example, we have eliminated the incorporation of the General Provisions' requirement that a source develop an SSM plan. We have also revised certain recordkeeping and reporting that is related to the SSM exemption as described in detail in the proposed rule and summarized again here. As detailed in section III.B.3 of the November 19, 2021, proposal preamble, we are adding general duty regulatory text at 40 CFR 63.11173(h) that reflects the general duty to minimize emissions without differentiating between normal operations, startup and shutdown, and malfunction events in describing the general duty. We are also revising 40 CFR 63.11173(h) to require that the standards apply at all times, consistent with the court decision in *Sierra Club* v. *EPA.*

In establishing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained here, has not

established 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 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. We have determined that facilities in these source categories can meet the applicable emission standards in this NESHAP at all times, including periods of startup and shutdown. The legal rationale and detailed changes for SSM periods that we are finalizing here are set forth in the November 19, 2021, preamble to the proposed rule. See 86 FR 66141–42.

Further, the EPA is not finalizing standards for malfunctions. 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, they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment. (40 CFR 63.2) (Definition of malfunction). As discussed in section III.B.3 of the November 19, 2021, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. This reading has been upheld as reasonable by the court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). For these source categories, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section III.B.3 of the November 19, 2021, proposal preamble for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a facility could take in the unlikely event that a facility fails to comply with the standards as a result of a malfunction event.

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

These rules also finalize, as proposed, revisions to several other NESHAP requirements. We describe the revisions that apply to all the affected source categories in the following paragraphs.

1. Electronic Reporting Requirements

The EPA is finalizing the proposal 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), or 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. More information is available in the November 19, 2021, proposal preamble (86 FR 66130).

2. Rule Clarifications and Other Changes

We are making plain language clarifications and revisions to better reflect regulatory intent. We also are making 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 changes related to these issues are discussed in the following sections.

a. Submarines and Tanks Applicability

The EPA is clarifying in this preamble that the surface coating and paint stripping occurring at area sources of certain types of military equipment, 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 is not covered by the provisions in 40 CFR 63.11169(d)(1) and is subject to the requirements of 40 CFR part 63, subpart HHHHHH.

b. Coating HAP Content Definition

The EPA is amending the definition of ''target HAP containing coating'' in 40 CFR 63.11180 to clarify that compliance with the definition 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.

c. Spray Gun Cup Liners

The EPA is amending the definition of ''spray-applied coating operations'' in 40 CFR 63.11180 to clarify that the allowance to use spray guns outside 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.

d. Circumvention of Paint Cup Capacity Intent

The EPA is also amending the definition of ''spray-applied coating operations'' in 40 CFR 63.11180 to clarify that repeatedly refilling and reusing a 3.0 fluid ounce cup or cup liner or using multiple 3.0 fluid ounce cup liners to complete a single spray-applied coating operation as a means of avoiding rule applicability will be considered an attempt to circumvent the requirements of subpart HHHHHH. 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 removing references to Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) because 29 CFR 1910.1200(d)(4) has been amended and no longer defines which compounds are carcinogens. We are replacing these references to 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 in the definition of ''target HAP containing coating'' in 40 CFR 63.11180. 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 removing 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 updating the spray booth filter test method in 40 CFR 63.11173, which was previously incorporated by reference, to the most recent American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) method. Section 63.11173 referenced 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 adding a reference to EPA Method 319—Determination of Filtration Efficiency for Paint Overspray Arrestors (Appendix A to 40 CFR part 63) to 40 CFR 63.11173 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.

h. Petition for Exemption Process

The EPA is amending 40 CFR 63.11170 to introduce 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. Previously, all such sources were subject to the NESHAP, unless they demonstrated to the satisfaction of the Administrator that they do not spray-apply any coatings that contain the target HAP. The rule is being revised to allow sources to submit notification to the Administrator, as a simplified alternative to the petition for exemption process, that they do not spray-apply any coatings that contain the target HAP. Such sources will still be required to retain records that describe the coatings that are spray-applied in order to support the notification, but that information does not need to be reported to the Administrator. The Administrator maintains 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 want confirmation of exemption.

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

The amendments to the NESHAP being promulgated in this action are effective on November 10, 2022. For affected sources, the compliance date for the amendments being promulgated in this action is May 9, 2023. All affected facilities will continue to meet the current requirements of 40 CFR part 63, subpart HHHHHH, until the applicable compliance date of the amended rule. The EPA selected these compliance dates based on experience with similar industries, and the EPA's detailed justification for the selected compliance dates is included in the preamble to the proposed rule (86 FR 66142).

IV. What is the rationale for our final decisions and amendments for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Technology Review for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources Source Categories

1. What did we propose pursuant to CAA section 112(d)(6) for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?

In performing a technology review of paint stripping and miscellaneous surface coating operations, the EPA consulted sources of data that included: the EPA's ECHO database; the EPA's RACT/BACT/LAER Clearinghouse; publicly available state air permit databases; regulatory actions promulgated subsequent to the Paint Stripping and Miscellaneous Surface Coating at Area Sources NESHAP; regional and state regulations and operating permits; site visit reports; and industry information. The EPA's review is described in a memorandum (''technology review memorandum'') titled *Technology Review for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources,* available in the docket for this action. Based on our review, we did not identify any developments in practices, processes, or control technologies for the paint stripping and miscellaneous surface coating operations at area sources source categories, and, therefore, we did not propose any changes to the emission standards under CAA section 112(d)(6). A summary of the EPA's findings in conducting the technology review of paint stripping and miscellaneous surface coating operations was included in the preamble to the proposed action (86 FR 66137).

2. How did the technology review change for the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources source categories?

We are making no changes to the conclusions of the technology review and are finalizing the results of the technology review for the paint stripping and miscellaneous surface coating operations at area sources source categories as proposed.

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

We received three comments objecting to our decision not to strengthen GACT standards based on a conclusion that there have been no technology developments.

Comment: One commenter stated that the EPA's proposed decision to not strengthen the GACT standards by requiring the use of only coatings that do not contain the target HAP conflicts with the EPA's own recognition that surface coating manufacturers have modified their products to produce new formulas that are free of target HAP. The commenter claimed that the EPA has failed to rationally explain why it does not require widespread use of these nontoxic formulas.

Response: The EPA notes that the current rule requirements have been very successful in moving this source category to HAP-free coatings and achieving significant reductions of metal HAP emissions. In many cases industry has succeeded in its goal of identifying HAP-free alternatives, but there are also many cases where that goal was not achievable. For example, hexavalent chromium-containing primers are particularly important to the U.S. aerospace industry. Interior surfaces and parts of the aircraft must be protected from corrosion for the life of the aircraft because they cannot be accessed once the aircraft is assembled. For this reason, the aerospace industry

is moving very slowly to replace hexavalent chromium-containing primers. Our current approach of requiring controls and work practices has been and will continue to be successful in reducing emissions, while still allowing this industry to produce coated products that meet the required specifications.

Comment: One commenter asserted that the EPA's proposed decision to not strengthen the GACT standards by requiring the use of only coatings that do not contain the target HAP is arbitrary because it invokes widespread technological improvement as a reason not to strengthen the standards. The commenters said that the EPA is obligated to require the use of GACT under 42 U.S.C. 7412(d)(5) and MACT under 42 U.S.C. 7412(d)(2). Under both provisions, the commenter stated, the EPA is required to adopt technologies in use by industry to reduce emissions as emission standards and cannot leave it up to the industry to decide whether to employ these proven technologies.

Response: The EPA affirmed in the original NESHAP that reformulation to HAP-free alternatives was a viable approach to emissions reduction. Coatings manufacturers have found many viable substitutions, but this is not universally true for all of the source categories subject to the NESHAP. The data the EPA has referenced indicating widespread reductions in the use of target HAP is specific to manufacturers of automotive surface coatings and does not cover the other source categories that are subject to the NESHAP. While the automotive industry has seen considerable improvements in surface coating technologies that avoid use of the target HAP in original equipment manufacture, automotive refinishers must sometimes use coatings that contain target HAP. In addition, other industries such as aerospace are still reliant on certain performance characteristics that can currently only be met through use of target HAP-containing coatings. Though viable alternatives are actively being researched through programs such as the Department of Defense's ASETSDefense program, suitable alternatives have not been found for many applications that rely on target HAP (*e.g.,* formulations that include hexavalent chromium compounds for corrosion resistance). The EPA is not required to set MACT standards for area sources, as under 112(d)(5) the EPA may elect to provide GACT standards instead for area sources, which it has done.

Comment: One commenter declared that the EPA's proposed decision to not strengthen the GACT standards by requiring the use of only coatings that do not contain the target HAP is arbitrary because the EPA dismisses the experience of states that have required stronger protections to feasibly reduce emissions. The commenter stated that while the EPA appears to assert that these protections would not reduce emissions, logic and the states' experience contradict that claim. The commenter also said that the EPA appears to claim that it should not adopt these stronger protections because it already considered them, but 42 U.S.C. 7412(d)(6) broadly requires the EPA to consider developments, and the EPA must explain why these developments should not be adopted. The commenter pointed out that in the 2007 rulemaking on which the EPA relies, the EPA speculated that a requirement to use formulas without hexavalent chromium or cadmium ''could'' lead to business closures due to a lack of alternative formulas with sufficient corrosion protection, but those requirements have now been in place for over a decade, and the EPA itself acknowledges that target-HAP free formulas are now more readily available. The commenter asserted that it is irrational and arbitrary for the EPA to continue to rely on speculation that alternative formulas could be inadequate, particularly given that there is zero record evidence that target HAP-free formulas are not widely available or perform worse than toxic formulas. The commenter contended that the EPA must rationally evaluate whether stronger protections should now be adopted in light of these developments and more than a decade of experience after California's ban on the use of the most toxic formulas.

Response: It was the EPA's determination in 2008 that such a ban was not reasonable, feasible, or cost-effective to be widely applied. HAP-free alternatives were available during development of the initial NESHAP, and there has been a continuing trend of further developing such HAP-free alternatives. However, not all coating manufacturers have eliminated coatings that contain the target HAP. Some manufacturers provide the same coating in both a target HAP-free version and one containing the target HAP for certain applications. Additionally, the data on coating manufacturers the EPA has referenced is specific to manufacturers of automotive surface coatings and does not cover the other source categories that are subject to the NESHAP. While the automotive industry has seen considerable improvements in surface coating technologies that avoid use of the target HAP in original equipment manufacture, automotive refinishers must sometimes use coatings that contain target HAP. In addition, other industries such as aerospace are still reliant on target HAP-containing coatings due to a lack of suitable alternatives that meet certain performance characteristics, such as corrosion resistance properties, which in many cases can still only be met with hexavalent chromium-containing coatings. Viable alternatives are actively being researched through programs such as the Department of Defense's Advanced Surface Engineering Technologies for a Sustainable Defense (ASETSDefense) program, and less hazardous alternatives have been authorized where possible, but alternatives have still not been found for many applications.

The commenter also claims that the EPA has dismissed the experiences of states that have required stronger protections to feasibly reduce emissions. However, the only state the commenter has specifically offered as an example is California. We assume that California's ban to which the commenter refers is the 2001 Air Borne Toxic Control Measure for Emissions of Hexavalent Chromium and Cadmium from Motor Vehicle and Mobile Equipment Coatings (ATCM). The ATCM only addresses motor vehicle and mobile equipment surface coatings; it does not cover any of the other source categories subject to the NESHAP. The commenter's statement fails to address other surface coating applications where substitution of non-HAP coatings is not always feasible. Additionally, the ATCM only eliminates the use of cadmium and chromium and does not apply to the other target HAP covered by the NESHAP.

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

For the reasons explained in the preamble to the proposed rules (86 FR 66130, November 19, 2021), and in our analysis of public comments explained above in section IV.A.3 of this preamble, we are making no changes to subpart HHHHHH to require additional controls pursuant to CAA section 112(d)(6) and are finalizing the results of the technology review as proposed.

B. Electronic Reporting

1. What did we propose?

We proposed 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). More detailed information on these changes can be found in the November 19, 2021, proposal preamble (86 FR 66140).

2. What changed since proposal?

We are finalizing the electronic reporting provisions as proposed with no changes (86 FR 66140, November 19, 2021).

3. What key comments did we receive and what are our responses?

Comment: One commenter suggested that the EPA minimize the requirements for electronic reporting to the extent possible, allow flexibility in the format, and allow hard copy reporting as needed to reduce the burden on small businesses.

Another commenter argued that the data obtained through electronic reporting will be highly incomplete due to the lack of internet access among small businesses and because of how complicated CEDRI is. The commenter claimed that making electronic reporting a requirement would create high rates of noncompliance with no real benefit to the environment.

Response: The EPA recognizes that there will be a slight burden to gain initial familiarity with the CEDRI system. However, after the initial process, the EPA believes electronic reporting will lessen burden for all involved parties. The EPA does allow flexibility in the format of the reports, and there is no template or prescriptive data entry process unlike for many other rules. The required documents, each of which involves fairly minimal information requirements, may be submitted in a standard PDF format. Allowing hard copy reporting would reduce the effectiveness of this program, as the intent is to create an electronic record that lessens the burden on all involved, and a hybrid mixture of new documents in both electronic and paper formats would be unwieldy.

Comment: One commenter stated that the small business community lacks the resources that larger businesses have to accomplish electronic reporting and that many shops do not have internet access or computers. According to the commenter, many shops that would regularly utilize internet access at public libraries have not been able to do so during the COVID–19 pandemic.

Response: It is the EPA's position that internet access is easily obtained, and temporary disruptions due to a pandemic are not indicative of, or used to determine, standards that would typically apply.

4. What is the rationale for our final approach for the electronic reporting provisions?

For the reasons explained in the preamble to the proposed rules (86 FR 66130, November 19, 2021), and in the comment responses above in section IV.B.3 of this preamble, we are finalizing the electronic reporting provisions for 40 CFR part 63, subpart HHHHHH, as proposed.

C. SSM Provisions

1. What did we propose?

In the November 19, 2021, action, we proposed amendments to the Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources NESHAP to remove and revise provisions related to SSM that are not consistent with the statutory requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (86 FR 66141).

2. What changed since proposal?

We are finalizing the SSM provisions as proposed with no changes (86 FR 66130, November 19, 2021).

3. What key comments did we receive and what are our responses?

No comments were received on our proposed changes to the SSM provisions.

4. What is the rationale for our final approach for the SSM provisions?

For the reasons explained in the preamble to the proposed rule (86 FR 66130, November 19, 2021), we are finalizing the SSM provisions for 40 CFR part 63, subpart HHHHHH, as proposed.

D. Petition for Exemption

1. What did we propose?

In the November 19, 2021, action, we proposed 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. More information concerning the simplified petition for exemption process is in the preamble to the proposed rules (86 FR 66141).

2. What changed since proposal?

We are finalizing the simplified alternative to the petition for exemption process as proposed with no changes (86 FR 66130, November 19, 2021).

3. What key comments did we receive and what are our responses?

We received three comments concerning the petition for exemption process for motor vehicle or mobile equipment surface coating operations.

Comment: One commenter urged the EPA to delete the petition for exemption process for motor vehicle or mobile equipment surface coating operations. The commenter asserted that the EPA is incorrect in its conclusion that autobody shops are often unaware of the HAP content of the coatings they apply. The commenter stated that manufacturers provide information to their customers such that automotive refinishing operations know the HAP composition of the products that they use. In addition, many automotive refinishing operations have state and local air permits that require the disclosure of a considerable amount of information on these operations and their emissions. The commenter argued that automatically subjecting automotive refinishing operations to the rule also places an excessive burden on the smallest of the sources affected by the rule. For consistency and to reduce burden (especially for small business operations), the commenter recommended that the EPA revise the rule so that miscellaneous metal parts, plastic parts, and automotive refinishing operations are not subject to the rule unless they use coatings containing the target HAPs of concern.

Response: The EPA notes that sources that perform surface coating of miscellaneous metal parts and plastic parts are only subject to the NESHAP standards if they spray-apply target HAP-containing coatings. That is because it is easier for them (and the EPA/delegated authorities) to know and track the HAP content of these coatings. In contrast, because automotive refinishing operations are relatively numerous, as well as less consistent in facility operation and in the coatings that they may purchase or use at any given time, the EPA has concerns that changing the general applicability would make it even more difficult to support compliance with the standards.

In addition, the target HAP that are the subject of this rule are not a priority for state and local air agencies, except for a few cases—such as California's 2001 ban on cadmium and chromium—and are not addressed in or limited by

state and local air quality permits. Therefore, the information that is collected from automotive refinishers under this rule would not otherwise be readily available. The EPA has, however, reduced the burden on automotive refinishing facilities by allowing them to submit a notification to the EPA that they are not subject rather than having to petition the EPA for a determination that they are not subject.

The EPA's assessment in the original 2008 rule was that most sources were already in compliance with these standards and that, for those that were not, achieving compliance would not be overly burdensome. Because target HAP-free coatings have become even more available in recent years, achieving compliance is arguably even less burdensome than before the rule.

Comment: One commenter argued that the requirement that autobody shops must file a petition to have EPA approve their exempt status singles them out from all other businesses that spray paint on metal and plastic substrates. The commenter stated that the requirement to file a petition for exemption adds a substantial burden on these very small businesses that others do not have. Due to the extra burden of filing a petition, the commenter said that it is likely that tens of thousands of shops are out of compliance with a rule when they technically should not be subject to it at all.

Response: The EPA maintains that autobody shops operate differently from the other miscellaneous surface coating operations and that distinguishing them is merited due to these differences. However, we have no evidence that the burden of electronically submitting a PDF is onerous, and we note that there is a benefit for all involved parties to have readily accessible documentation of basic facts about subject sources and their compliance with the NESHAP requirements. The commenter's claim that the burden of filing a petition for exemption is a cause of source noncompliance is unsubstantiated. In fact, the EPA's proposed simplified alternative to the petition for exemption process reduces possible burden.

Comment: One commenter recommended that if the EPA chooses to retain the petition for exemption requirements on autobody shops, it is essential to fix 40 CFR 63.11170(a)(2) to exempt shops from only the coatings portion of the subpart and not the paint stripping portion. Likewise, the commenter urged the EPA to clarify that using MeCl stripper does not preclude a shop from petitioning for exemption from the coatings portion. Finally, the commenter requested that the EPA clarify that a petition for exemption does not require that an initial notification be filed at the same time since a granted petition obviates the need for an initial notification.

Response: The EPA maintains it is already clear that the exemption only applies to activities under 40 CFR 63.11170(a)(2), and that is made explicit in the example petition for exemption document that can be found on the EPA's Collision Repair Campaign Documents web page (*https://www.epa.gov/collision-repair-campaign/collision-repair-campaign-documents*). However, to improve clarity, the EPA is revising the second sentence of 40 CFR 63.11170(a)(2) such that the rule language no longer refers to ''an exemption from this subpart,'' and instead refers to ''an exemption from the surface coating provisions of this subpart.'' The NESHAP does require that each facility provide an initial notification, to include information specified in 40 CFR 63.11175(a), regardless of whether or when the facility chooses to additionally submit a petition for exemption, or the simplified alternative notification that they do not spray-apply coating containing the target HAP.

4. What is the rationale for our final approach for the simplified alternative to the petition for exemption?

For the reasons explained in the preamble to the proposed rules (86 FR 66130, November 19, 2021), and in the comment responses above in section IV.D.3 of this preamble, we are finalizing the provisions for a simplified alternative to the petition for exemption process for 40 CFR part 63, subpart HHHHHH, as proposed.

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

A. What are the affected facilities?

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 any and all of the items listed in (1) through (6) of this section V.A of the preamble. Not all affected sources will have all of the items listed in (1) through (6) of this section V.A of the preamble.

(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 to the NESHAP.

These 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 will occur as a result of this action. However, eliminating the SSM exemption has the potential to reduce emissions by requiring facilities to meet the applicable standard during SSM periods.

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. These 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 one-time 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).[1] 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*

[1] 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.*

Standards of Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources, available in the docket for this action.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision makers about the potential economic consequences of the compliance costs outlined in section V.C. of this preamble. 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 final 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 final 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 final 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 amendments.

E. What are the benefits?

As stated in section V.B. of the November 19, 2021, proposal preamble (86 FR 66130), we were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption, although this change has the potential to reduce emissions of the target HAP and MeCl.

Because these 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 memorandum, available in the docket for this action, and section II.C of this preamble, we did conduct searches for available information. However, the 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 upon the number of facilities in this analysis and their proximity to urban centers, the category 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 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. 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.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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 the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule 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 2268.08. 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 revising the emission limit requirements. The EPA is revising 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 final rulemaking, 38,194 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 is estimated to be 43,900 hours (per year). The average annual burden to the Agency over the 3 years 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. The average annual capital and operation and maintenance (O&M) cost savings is $27,100, because photocopying and postage will no longer be necessary in submitting notifications and reports. The total average annual Agency cost over the first 3 years is estimated to be $0.

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 V.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 action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

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. Nevertheless, consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, EPA sent out consultation letters to 574 federally recognized tribes offering tribal officials the opportunity to meaningfully engage on a government-to-government basis. We did not receive any requests for consultation. In addition, on June 24, 2021, EPA provided an overview of the proposed action on the monthly National Tribal Air Association (NTAA) air policy call to provide tribal environmental professionals an opportunity to ask questions.

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 amending 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 amending the NESHAP 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 *https://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.

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.

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

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

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is amending part 63 of title 40, chapter I, of the Code of Federal Regulations as follows:

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

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

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

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:
■ a. Revising paragraph (d)(1); and
■ b. Adding paragraph (d)(2).

The revision and addition read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(d) * * *

(1) American Society of Heating, Refrigerating, and Air-Conditioning Engineers Method 52.1, *Gravimetric and Dust-Spot Procedures for Testing Air-Cleaning Devices Used in General Ventilation for Removing Particulate Matter* June 4, 1992; IBR approved for § 63.11516(d).

(2) ANSI/ASHRAE Standard 52.2–2017, *Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size,* copyright 2017; IBR approved for § 63.11173(e).

* * * * *

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

■ 3. Amend § 63.11170 by revising paragraph (a)(2) to read as follows:

§ 63.11170 Am I subject to this subpart?

(a) * * *

(2) Perform spray application of coatings, as defined in § 63.11180, to motor vehicles and mobile equipment including operations that are located in stationary structures at fixed locations, and mobile repair and refinishing operations that travel to the customer's location, except spray coating applications that meet the definition of facility maintenance in § 63.11180. However, if you are the owner or operator of a motor vehicle or mobile equipment surface coating operation, you may petition the Administrator for an exemption from the surface coating provisions of this subpart if you can demonstrate, to the satisfaction of the Administrator, that you spray apply no coatings that contain the target HAP, as defined in § 63.11180. Petitions must include a description of the coatings that you spray apply and your certification that you do not spray apply any coatings containing the target HAP. If circumstances change such that you intend to spray apply coatings containing the target HAP, you must submit the initial notification required by § 63.11175 and comply with the requirements of this subpart. On and after May 9, 2023, you may submit a notification to the Administrator that you do not spray apply any target HAP containing coatings, as defined in § 63.11180, in place of a petition. You are still required to retain records that describe the coatings that are spray applied, but that information does not need to be reported to the Administrator. The Administrator maintains the authority to verify records retained on site, including whether the notification of exemption was sufficiently demonstrated. Alternatively, if you are the owner or operator of a motor vehicle or mobile equipment surface coating operation and you wish for a formal determination, you may still petition the Administrator for an exemption from this subpart.

* * * * *

■ 4. Amend § 63.11173 by revising paragraph (e)(2)(i) and adding paragraph (h) to read as follows:

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

* * * * *

(e) * * *

(2) * * *

(i) All spray booths, preparation stations, and mobile enclosures must be fitted with a type of filter technology that is demonstrated to achieve at least 98 percent capture of paint overspray. The procedure used to demonstrate filter efficiency must be consistent with the ANSI/ASHRAE Standard 52.2–2017 (incorporated by reference, see § 63.14). The filter efficiency shall be based on the difference between the quantity of dust injected and the quantity captured on the final filter with no test device in place. The filter will be challenged with 100 grams of loading dust and the final filter weight will be to the nearest 0.1 gram. EPA Method 319 of Appendix A to 40 CFR part 63 may be used as an alternative to ANSI/ASHRAE Standard 52.2–2017. Owners and operators may use published filter efficiency data provided by filter vendors to demonstrate compliance with this requirement and are not required to perform this measurement. The requirements of this paragraph do not apply to water wash spray booths that are operated and maintained according to the manufacturer's specifications.

* * * * *

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

■ 5. Amend § 63.11175 by adding paragraph (c) to read as follows:

§ 63.11175 What notifications must I submit?

* * * * *

(c) On and after May 9, 2023, the owner or operator shall submit the initial notifications required in § 63.9(b) and paragraph (a) of this section and the notification of compliance status required in § 63.9(h) and paragraph (b) of this section to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI) (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov*)). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is confidential business information (CBI) shall submit a complete notification, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Paint Stripping and Miscellaneous Surface Coating Operations Sector Lead, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

■ 6. Amend § 63.11176 by adding paragraphs (c) through (e) to read as follows:

§ 63.11176 What reports must I submit?

* * * * *

(c) On and after May 9, 2023, the owner or operator shall submit the Annual Notification of Changes Report required in paragraph (a) of this section and the MeCl report required in paragraph (b) of this section to the EPA via CEDRI (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov*)). The owner or operator must upload to CEDRI an electronic copy of each applicable report in PDF. The applicable report must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Paint Stripping and Miscellaneous Surface Coating Operations Sector Lead, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(d) If you are required to electronically submit a report through the CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; provide to the Administrator a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(e) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of *force majeure* for failure to timely comply with the reporting requirement. For the purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of *force majeure,* you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the *force majeure* event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs. The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 7. Amend § 63.11180 by:

■ a. Revising the definition of ''*Materials that contain HAP* or *HAP-containing materials*''*;*

■ b. Removing the definition of ''*Non-HAP solvent*''*;* and

■ c. Revising the definitions of ''*Spray-applied coating operations*'' and ''*Target HAP containing coating*''.

The revisions read as follows:

§ 63.11180 What definitions do I need to know?

* * * * *

Materials that contain HAP or *HAP-containing materials* mean, for the purposes of this subpart, materials that contain any individual target HAP that is a carcinogen at a concentration greater than 0.1 percent by mass, or greater than 1.0 percent by mass for any other individual target HAP.

* * * * *

Spray-applied coating operations means coatings that are applied using a hand-held device that creates an atomized mist of coating and deposits the coating on a substrate. For the purposes of this subpart, spray-applied coatings do not include the following materials or activities:

(1) Coatings applied from a hand-held device with a paint cup capacity that is equal to or less than 3.0 fluid ounces (89 cubic centimeters) for devices that do not use a paint cup liner, or with a paint cup liner capacity that is equal to or less than 3.0 fluid ounces (89 cubic centimeters) for devices that use a paint cup liner. Repeatedly refilling and reusing a 3.0 fluid ounce cup or cup liner or using multiple 3.0 fluid ounce cup liners to complete a single spray applied coating operation as a means of avoiding rule applicability will be considered an attempt to circumvent the requirements of this subpart.

(2) Surface coating application using powder coating, hand-held, non-refillable aerosol containers, or non-atomizing application technology, including, but not limited to, paint brushes, rollers, hand wiping, flow coating, dip coating, electrodeposition coating, web coating, coil coating, touch-up markers, or marking pens.

(3) Thermal spray operations (also known as metallizing, flame spray, plasma arc spray, and electric arc spray, among other names) in which solid metallic or non-metallic material is heated to a molten or semi-molten state and propelled to the work piece or substrate by compressed air or other gas, where a bond is produced upon impact.

* * * * *

Target HAP containing coating means a spray-applied coating that contains any individual target HAP that is a carcinogen at a concentration greater than 0.1 percent by mass, or greater than 1.0 percent by mass for any other individual target HAP compound. For the target HAP, this corresponds to coatings that contain cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by mass (of the metal), and materials that contain manganese in amounts greater than or equal to 1.0 percent by mass (of the metal). For the purpose of determining whether materials you use contain the target HAP compounds, you may rely on formulation data provided by the manufacturer or supplier, such as the material safety data sheet (MSDS), as long as it represents each target HAP compound in the material that is present at 0.1 percent by mass or more for carcinogens and at 1.0 percent by mass or more for other target HAP compounds. The target HAP content of coatings 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 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.

* * * * *

■ 8. Revise table 1 to subpart HHHHHH to read as follows:

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

Citation	Subject	Applicable to subpart HHHHHH	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability of subpart HHHHHH is also specified in § 63.11170.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)	Applicability of Permit Program for Area Sources.	Yes	§ 63.11174(b) of subpart HHHHHH exempts area sources from the obligation to obtain Title V operating permits.
§ 63.1(c)(5)	Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program to Major Sources Before Relevant Standard is Set.	No	§ 63.11174(b) of subpart HHHHHH exempts area sources from the obligation to obtain Title V operating permits.
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.11180.
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Fragmentation	Yes.	
§ 63.5	Construction/Reconstruction of major sources.	No	Subpart HHHHHH applies only to area sources.
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.11172 specifies the compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	§ 63.11172 specifies the compliance dates.
§ 63.6(e)(1)–(2)	Operation and Maintenance Requirements.	No	See § 63.11173(h) for general duty requirement.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.	No	No startup, shutdown, and malfunction plan is required by subpart HHHHHH.
§ 63.6(f)(1)	Compliance with Nonopacity Emission Standards—Applicability.	No..	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of an Alternative Standard	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart HHHHHH does not establish opacity or visible emission standards.
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7	Performance Testing Requirements	No	No performance testing is required by subpart HHHHHH.

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

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

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