a number of small entities, such as tackle, boat, and gasoline dealers. The number of small entities affected is unknown; however, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that the effects will not be significant.

In general, the resources harvested under this rule will be consumed by the local harvester and do not result in a dollar benefit to the economy. However, we estimate that about 26.2 million pounds of fish (including about 9 million pounds of salmon) are harvested Statewide by the local subsistence users annually and, if based on a replacement value of $3.00 per pound, would equate to $78.6 million in food value Statewide.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or tribal governments.

The Service has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless their program is compliant with the requirements of that Title.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), 512 DM 2, and E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. The Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this action is not a significant action and no Statement of Energy Effects is required.

William Knauer drafted these regulations under the guidance of Thomas H. Boyd of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Dennis Tol and Taylor Brelsford, Alaska State Office, Bureau of Land Management; Greg Bos, Carl Jack, and Jerry Berg, Alaska Regional Office, U.S. Fish and Wildlife Service; San Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service; Warren Eastland, Pat Petrivelli, and Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, Alaska Regional Office, USDA-Forest Service provided additional guidance.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, the Secretaries propose to amend title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART ___—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 would continue to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart A—General Provisions

2. In Subpart A of 36 CFR part 242 and 50 CFR part 100, § ___.3 would be amended by adding paragraph (b)(5) to read as follows:

§ ___.3 Applicability and scope.

* * * * *

(b) * * *

(5) Southeastern Alaska—Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°21′35″ north latitude, 135°21′07″ west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3000 feet, to a point, 57°03′15″ north latitude, 135°23′07″ west longitude; East, 2900 feet, to a point in course No. 46 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; Southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1496 to angle point No. 35, on the Southwestern point of Japonski Island; S. 60° E., 3300 feet, along the boundary line of Naval reservation described in Executive order No. 8216, July 25, 1939, to the point beginning.

* * * * *

Dated: March 22, 2006.

P. Lynn Scarlett,

Secretary of the Interior, Department of the Interior.

Dated: April 4, 2006.

Dennis E. Bschor,

Regional Forester, USDA-Forest Service.

[FR Doc. 06–4012 Filed 4–28–06; 8:45 am]

BILLING CODE 3410–11–M; 4310–55–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0021; FRL–8163–7]

RIN 2060–AM30

National Emission Standards for Hazardous Air Pollutants: Site Remediation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to amend the national emission standards for hazardous air pollutants (NESHAP) for site remediation activities that were promulgated on October 8, 2003, to control emissions of hazardous air pollutants (HAP) from site remediation activities. We are proposing to amend specific provisions to resolve issues and questions subsequent to promulgation; correct technical omissions; and correct

typographical, cross-reference, and grammatical errors.

DATES: *Comments.* Comments on the proposed amendments must be received on or before June 30, 2006.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by May 22, 2006, a public hearing will be held on May 31, 2006.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2002–0021, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *By Facsimile:* (202) 566–1741.
- *Mail:* Air and Radiation Docket, U.S. EPA, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. The EPA requests a separate copy also be sent to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**).
- *Hand Delivery:* EPA Docket Center, Docket ID Number EPA–HQ–OAR–2002–0021, EPA West Building, 1301 Constitution Ave., NW., Room B102, Washington, DC, 20004. Such deliveries are accepted only during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2002–0021. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Nizich, Chemicals and Coatings Group, Sector Policies and Programs Division (C439–03), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–3078, facsimile number (919) 541–3207, electronic mail (e-mail) address: *nizich.greg@epa.gov.*

SUPPLEMENTARY INFORMATION:

Entities Table. Entities potentially affected by this proposed action include, but are not limited to, the following:

Category	NAICS [1]	Examples of regulated entities
Industry	325211 325192 325188 32411 49311 49319 48611 42269 42271	Site remediation activities at businesses at which materials containing organic HAP currently are or have been in the past stored, processed, treated, or otherwise managed at the facility. These facilities include: Organic liquid storage terminals, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with co-located site remediation activities.
Federal Government		Federal agency facilities that conduct site remediation activities to clean up materials contaminated with organic HAP.
State/Local/Tribal Government		Tribal governments that conduct site remediation activities to clean up materials contaminated with organic HAP.

[1] North American Industry Classification System (NAICS) code. Representative industrial codes at which site remediation activities have been or are currently conducted at some but not all facilities under a given code. The list is not necessarily comprehensive as to the types of facilities at which a site remediation cleanup may potentially be required either now or in the future.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action.

A comprehensive list of NAICS codes cannot be compiled for businesses or facilities potentially regulated by the rule due to the nature of activities regulated by the source category. The industrial code alone for a given facility does not determine whether the facility is or is not potentially subject to the rule. The rule may be applicable to any type of business or facility at which a site remediation is conducted to clean up media contaminated with organic HAP and other hazardous material. Thus, for many businesses and facilities subject to the rule, the regulated sources (i.e., the site remediation activities) are not the predominant activity, process, operation, or service conducted at the facility. In these cases, the industrial code indicates a primary product produced or service provided at the facility rather than the presence of a site remediation at the facility. For example,

NAICS code classifications where site remediation activities are currently being performed at some but not all facilities include, but are not limited to, petroleum refineries (NAICS code 32411), industrial organic chemical manufacturing (NAICS code 3251xx), and plastic materials and synthetics manufacturing (NAICS code 3252xx). However, we are also aware of site remediation activities potentially subject to the rule being performed at facilities listed under NAICS codes for refuse systems, waste management, business services, miscellaneous services, and nonclassifiable.

To determine whether your facility is regulated by the action, you should carefully examine the applicability criteria in the 40 CFR part 63, subpart GGGGG—National Emissions Standards for Hazardous Air Pollutants: Site Remediation. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

WorldWide Web (WWW). Following the Administrator's signature, a copy of the proposed amendments will be posted on the Technology Transfer Network's (TTN) policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

Public Hearing. If a public hearing is requested, it will be held at 10 a.m. at the EPA Facility Complex in Research Triangle Park, North Carolina or at an alternate site nearby. Contact Mr. Greg Nizich at 919–541–3078 to request a hearing, to request to speak at a public hearing, to determine if a hearing will be held, or to determine the hearing location.

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

I. Background

We promulgated subpart GGGGG, National Emission Standards for Hazardous Air Pollutants: Site Remediation, in 40 CFR part 63 on October 8, 2003 (68 FR 58172). Subpart GGGGG applies to owners and operators of facilities that are major sources of HAP emissions and where a site remediation is conducted that meets the definitions and conditions specified in the final rule. Certain types of site remediations are explicitly exempted from being subject to the final rule. Each site remediation subject to the final rule must meet the emission limitation and work practice standards in subpart GGGGG that apply to the source types (e.g., process vents, tanks, containers, equipment components) used to perform or associated with the site remediation activities.

Since the promulgation of subpart GGGGG of 40 CFR part 63, we have received questions about our interpretation of specific provisions in the final rule. To clarify these issues, we decided that technical amendments to the final rule are appropriate. Also, as part of today's action, we are proposing to amend other rule language to correct technical omissions, and to correct terminology, typographical, printing, and grammatical errors that we have identified since promulgation. The proposed amendments would not significantly change our original projections for the final rule's compliance costs, environmental benefits, burden on industry, or the number of affected facilities.

A petition for reconsideration for the final rule was filed by the Sierra Club on December 8, 2003. The amendments proposed today do not address any issues cited in the Sierra Club's petition. We are still reviewing the items for reconsideration and will address them in a future notice.

II. Proposed Amendments

We are proposing to amend 40 CFR part 63, subpart GGGGG, to clarify our intent for applying and implementing specific rule requirements and to correct unintentional technical omissions and editorial errors. A summary of the proposed amendments to the final rule and the rationale for these amendments are presented below.

A. Short-Term Site Remediation Exemption

Subpart GGGGG of 40 CFR part 63 provides an exemption for certain short-term site remediations performed at facilities subject to the final rule. Specifically, site remediations where the cleanup of a contaminated area at the facility can be completed within 30 consecutive calendar days are exempted from the air emission control requirements in subpart GGGGG. This exemption is included in the final rule to facilitate the prompt cleanup of contamination resulting from small spills or similar events where the facility owner or operator can quickly complete the cleanup in a short period of time. Following promulgation of the rule, we received requests to clarify how the 30-day limit is implemented.

As we discussed in the preamble to the final rule (68 FR 58185), the time interval for this exemption is based on the time required to complete those remediation activities that actually emit or have a potential to emit HAP. Furthermore, this exemption applies to those cleanups of contaminated areas that can reasonably be completed within a period much shorter than 30 days (e.g., several days, 1 to 2 weeks). We chose the 30-day interval specified in the final rule in consideration of those situations where a cleanup at a particular site that normally should be completed within several days or a week takes longer to complete because factors beyond the control of the owner or operator temporarily suspend or delay the remediation activities (such as severe weather or unexpected machinery breakdowns). Therefore, we decided that selecting a maximum of 30 days for the short-term site remediation exemption allows a sufficient extended period to complete cleanups that experience unavoidable delays and provides a reasonable time buffer to account for any unforeseen circumstances that may develop at a site.

It is our intention that the short-term site remediation exemption only applies to those cleanups where all associated activities can be completed within 30 days (including any off-site treatment of the remediation materials) such that the organic HAP constituents in all of the remediation material resulting from the cleanup of the contaminated area no longer have a reasonable potential for volatilizing and being released to the atmosphere. In other words, we do not

consider simply shipping the remediation material generated by the cleanup to another site by the 30th day as complying with the exemption's intended scope. Materials containing organic HAP that are shipped off-site may still have the potential for the organics to volatilize and, consequently, be released to the atmosphere. Unless properly treated or disposed of, the action of shipping the remediation materials to an off-site location effectively just moves the HAP emissions point to another location and extends the time available for the organic HAP to be emitted.

We are proposing to amend 40 CFR 63.7884 to clarify the final rule language with respect to our intent for application of the short-term remediation exemption, including those situations when the remediation material is transferred off-site. The proposed amendment language would explicitly define the beginning and end of the 30-day exemption period. Within this 30-day period, regardless of the location where the treatment or disposal occurs (i.e., either on-site or at another facility), final treatment or disposal of all remediation material generated during the cleanup would need to be completed.

The first day of the 30-day exemption period would be defined as the day on which you initiate any action that removes, destroys, degrades, transforms, immobilizes, or otherwise manages the remediation materials. Consistent with the exemption under the existing rule, the following activities, when completed before beginning this initial action, would not be counted as part of the 30-day period: Activities to characterize the type and extent of the contamination by collecting and analyzing samples; activities to obtain permits from Federal, State, or local authorities to conduct the site remediation; activities to schedule workers and necessary equipment; and activities to arrange for contractor or third party assistance in performing the site remediation.

The last day of the exemption period would be defined as the day on which all of the remediation materials generated by the cleanup have been treated or disposed of (either at the cleanup site or another site) in a manner such that the organic HAP in the material no longer have a reasonable potential for volatilizing and being released to the atmosphere. This means the final treatment or disposal of all of the remediation material must be completed within the 30-day period following initiation of the cleanup. A site remediation where the only activities completed are excavating or otherwise removing the contaminated material, and then storing this material (e.g., in waste piles, tanks, or containers) during the 30-day period does not qualify for the exemption. In this case, the processes and equipment used for site remediation would need to meet the applicable emissions limitations and work practice standards in the final rule (unless the site remediation qualifies for another exemption allowed under the final rule).

Similarly, simply shipping all the remediation material off-site by the 30th day does not meet the conditions of the exemption. If the remediation materials generated by a cleanup are shipped off-site for treatment or disposal, then the owner or operator would be required to complete the transfer of all of the materials to a facility where these materials would be treated or disposed of within the 30-day period such that the organic HAP constituents in the materials no longer have a reasonable potential for volatilizing and subsequent release to the atmosphere. In situations when the off-site treatment or disposal of the remediation material cannot be completed within the 30-day period, then the remediation material is subject to 40 CFR 63.7936 of subpart GGGGG which specifies the requirements you must meet when you transfer remediation material off-site.

B. Point of Determination of Remediation Material Volatile Organic HAP (VOHAP) Concentration

Subpart GGGGG of 40 CFR part 63 establishes standards to control organic HAP emissions from certain remediation material management units (i.e., tanks, surface impoundments, containers, oil/water separators, organic/water separators and transfer systems) used for remediation activities. The final rule requires that those units managing remediation material with an average VOHAP concentration equal to or greater than 500 parts per million by weight (ppmw), meet the applicable emission limitation and work practice standards for the remediation material management unit specified in the rule. If the VOHAP concentration of the material is less than 500 ppmw, then the remediation material management units handling this material are not required to meet the air emission control requirements in subpart GGGGG. The VOHAP concentration is based on the organic HAP content of the remediation material determined by either direct measurement of samples of the remediation material or through use of knowledge of the remediation material (i.e., application of the owner's or operator's expertise using appropriate information regarding the remediation material).

As promulgated, subpart GGGGG of 40 CFR part 63 requires the VOHAP concentration for the remediation material to be determined at the ''point-of-extraction.'' This term is defined to be a point above ground where you can collect samples of a remediation material before, or at the first point where, organic constituents in the material have the potential to volatilize and be released to the atmosphere, and (in all instances) before placing the material in a remediation material management unit.

This point of determination is different from the definition we originally proposed for subpart GGGGG of 40 CFR part 63. In the proposed rule, the VOHAP concentration of the remediation material was specified to be determined at a point prior to, or within, a remediation material management unit, provided that organic constituents in the material have not been allowed to volatilize and be released to the atmosphere. This approach was discussed in the preamble to the proposed rule (67 FR 49408) and proposed in 40 CFR 63.7882(c)(4)(i) and 40 CFR 63.7912(a). We proposed this approach because it simplifies the determination procedure for the wide variety of treatment and management processes that can be used for site remediation activities.

The approach addresses situations not only when there is a single remediation material stream, but also those situations when there are two or more combined material streams (either only remediation materials or remediation materials with non-remediation materials). If a single material stream (or combination of streams) having a VOHAP concentration of 500 ppmw or greater is managed in a remediation material management unit, then the unit is subject to the air emission control requirements for the particular unit, as specified in the final rule. If at a further downstream point, the VOHAP concentration of the material falls below the 500 ppmw action level following treatment, the material no longer needs to be managed in units that meet the applicable air emission control requirements in subpart GGGGG of 40 CFR part 63 (however, these units would still need to comply with any applicable control under other Federal or State air rules). Similarly, if the VOHAP concentration of a remediation material through processing or other means is increased in a remediation material management unit to a level at or greater than the 500 ppmw action

level, that unit will need to use the appropriate controls specified in subpart GGGGG.

We received no adverse public comment on the proposed approach. We did, however, receive unrelated adverse public comments stating that the format we used for the proposed rule (e.g., reliance on presenting many rule requirements in an exclusively tabular format and extensive cross-referencing to provisions in other subparts in 40 CFR part 63) made the rule difficult to read and understand. In response to these comments, we significantly revised the editorial format and organization of the final rule. In doing so, the rule language we proposed designating the point where the VOHAP concentration of a remediation material is to be determined for the purpose of identifying those remediation material management units not subject to the rule's air emission control requirements (i.e., units managing remediation material having a VOHAP concentration less than the 500 ppmw action level) was unintentionally misstated when we converted this provision to the new format and wording used for the final rule.

Today's proposed amendments would correct our error by amending the language in subpart GGGGG of 40 CFR part 63 regarding the point where the VOHAP concentration of remediation material is determined, and reinstate the same regulatory approach and language that we used for the proposed rule. This regulatory language would be placed in the appropriate sections of the reformatted final version of subpart GGGGG with appropriate adjustments of terminology and section cross-references consistent with the final rule structure.

In addition, today's proposed amendments would remove the term ''point-of-extraction'' in the final rule since the term no longer is needed to implement any provision of subpart GGGGG of 40 CFR part 63 and would specify that you determine the average total VOHAP concentration of the remediation material at a point prior to or within a remediation material management unit. The applicable regulatory language under the procedures in 40 CFR 63.7943 for determining average VOHAP concentration of a remediation material would also be revised using the original proposal language to the fullest extent possible under the format of the final rule. Thus, we would be implementing our intended approach for determining the VOHAP concentration of the remediation material. Under today's proposed amendments (consistent with our original proposal), once the VOHAP concentration for a remediation material has been determined to be less than 500 ppmw, all remediation material management units downstream from the point of determination managing this material would no longer be required to meet the air emission control requirements in subpart GGGGG unless a remediation process is used that concentrates all, or part of, the remediation material being managed in the unit such that the VOHAP concentration of the material increases to 500 ppmw or more (e.g., free-product separation).

C. 1 Mg/yr Site Remediation Exemption

An applicability exemption is provided in 40 CFR 63.7881(c) for a facility that is a major source of HAP and is subject to another subpart under 40 CFR part 63, but where the annual quantity of organic HAP in the materials generated by the site remediations conducted at the facility is less than 1 megagram per year (Mg/yr). Facilities at which the site remediation activities qualify for this exemption are not subject to the final rule except for recordkeeping requirements. The owner or operator is required to maintain records documenting that the total quantity of the organic HAP in the remediation materials generated by site remediations at the facility is less than 1 Mg/yr. This section of the final rule has been wrongly interpreted by some to mean that the 1 Mg/yr limit is applied on an individual site remediation basis. By this interpretation, at a facility where two site remediations are conducted in a year, each site remediation would be allowed to generate remediation materials having total organic HAP content up to 1 Mg/yr resulting in a facilitywide total of 2 Mg/yr, which is not what we intended. This is not how the exemption provisions are to be applied to a facility.

The 1 Mg/yr limit for the exemption is applied on a facilitywide basis. As we stated in the proposal (67 FR 49406), the exemption applies to a facility for which the owner or operator demonstrates that the total annual organic HAP mass content of the remediation material cleaned up at a facility is less than 1 Mg/yr. The mass limit is based on the total organic HAP content of the remediation material at the facility, not the material from an individual site remediation at the facility. There is no restriction on the number of site remediations for which the exemption applies so long as the total organic HAP amount in the remediation materials generated by all of the site remediations conducted at the facility during a year is less than 1 Mg/yr.

To clarify the final rule language with respect to how the small-quantity remediation exemption is to be applied, we are proposing amended language for 40 CFR 63.7881(c). This language would not change how the 1 Mg/yr limit applies nor change the documentation requirements for the exemption now in the final rule, but simply and more explicitly state that the 1 Mg/yr limit applies on a facilitywide, calendar-year basis, and that there is no restriction of the number of site remediations under the exemption.

D. Requirements for Remediation Material Transferred Off-Site

The requirements for owners and operators transferring remediation material, having an average VOHAP concentration of 10 ppmw or greater, to an off-site facility are specified in 40 CFR 63.7936 of subpart GGGGG. This section has been incorrectly interpreted by some to mean that any remediation material transferred off-site with a VOHAP concentration at or above the 10 ppmw action level has some treatment obligation under subpart GGGGG. While we are not proposing to amend the existing language in 40 CFR 63.7936, we are including an explanation here to clarify how the 10 ppmw action level in 40 CFR 63.7936 is applied to remediation material transferred off-site.

The 10 ppmw VOHAP concentration action level in 40 CFR 63.7936 is not used to determine applicability of emissions control or work practice standards under subpart GGGGG of 40 CFR part 63. Rather, the 10 ppmw VOHAP concentration action level is specified because, at or above that VOHAP concentration, some action may be required by both the transferring facility and receiving facility, but further evaluation is needed to be certain if any action is required. If the VOHAP concentration of the transferred remediation material is less than 10 ppmw, there are no requirements under subpart GGGGG of 40 CFR part 63 regarding the off-site transfer and subsequent management of this material. However, if the VOHAP concentration of the transferred remediation material is 10 ppmw or greater, then there are recordkeeping, notification, and possibly air emission control requirements (depending on how the material is managed at the receiving facility) under subpart GGGGG of 40 CFR part 63 that must be met.

The determination of which air emission control requirements in subpart GGGGG of 40 CFR part 63 apply to, or follow, the transferred

remediation material to the receiving facility is based on other action levels in the final rule that are specifically applied to the affected sources regardless of the source location (i.e., the 10 ppmw action level for process vents in 40 CFR 63.7885 and the 500 ppmw action level for remediation material management units in 40 CFR 63.7886). In cases where transferred remediation material, having an average VOHAP concentration of 10 ppmw or greater, is treated or managed at the receiving facility in vented processes that would be affected sources under subpart GGGGG if located at the transferring facility (40 CFR 63.7882(a)(1)), then these processes must comply with the air emission control requirements for process vents in the final rule (40 CFR 63.7885).

In cases where transferred remediation material having an average VOHAP concentration of 500 ppmw or greater is treated or managed at the receiving facility in remediation material management units that would be affected sources under subpart GGGGG (40 CFR 63.7882(a)(2)), these units must comply with the applicable air emission control requirements in the final rule (40 CFR 63.7886). If instead the average VOHAP concentration of the transferred remediation material placed in these remediation material management units at the receiving facility is 10 ppmw or greater but less than 500 ppmw, then the units are not required to meet the air emission control requirements in subpart GGGGG. The only requirement is to document why the transferred remediation material is not subject to the air emission control requirements in subpart GGGGG (i.e., the VOHAP concentration of the material is below the 500 ppmw action level).

E. Requirements for Equipment Leaks

The general standards in subpart GGGGG of 40 CFR part 63 for process vents and for remediation material management units provide owners and operators an alternative compliance option for those units that are already using air pollution controls to comply with another subpart under 40 CFR part 61 or 40 CFR part 63. Under this option, your unit is not subject to air emission control requirements in subpart GGGGG if the unit is controlled in compliance with the standards specified in the applicable subpart of 40 CFR part 61 or 40 CFR part 63. This means the unit meets all applicable emissions limitations and work practice standards under the other subpart (e.g., you install and operate the required air emission control devices or have implemented the required work practice to reduce HAP emissions to levels specified by the applicable subpart). This provision only applies if the other subpart actually specifies a standard requiring control of HAP emissions from your affected process vents. It does not apply to any exemption of the affected source from using air pollution controls allowed by the other applicable subpart. This compliance option under subpart GGGGG was included in the proposed rule for both process vents and remediation material management units. We received no adverse public comments on allowing this compliance option.

The general standards in subpart GGGGG of 40 CFR part 63 do not include a comparable compliance option for those affected equipment leak sources associated with a site remediation that are already using air pollution controls to comply with another subpart under 40 CFR part 61 or 40 CFR part 63. There is no reason not to extend the same compliance option that subpart GGGGG allows for process vents and remediation material management units to equipment leak sources. The exclusion of this type of compliance option under the general standards for equipment leaks from the final rule was an oversight on our part. Therefore, the proposed amendments would add to the general standards for equipment leaks in 40 CFR 63.7887 a compliance option for those affected equipment leak sources that are already using air pollution controls or work practices to comply with another subpart under 40 CFR part 61 or 40 CFR part 63. The proposed regulatory language for this option effectively is the same (with minor wording changes appropriate to equipment leak sources) as used in the final rule for process vents and for remediation material management units that are already using air pollution controls to comply with another subpart under 40 CFR part 61 or 40 CFR part 63.

F. Applicability Determination for Remediation Activities at Certain Oil and Natural Gas Production Facilities

Since promulgation of the final rule, we have been notified that provisions in the Clean Air Act (CAA) providing special consideration for activities located at certain oil and natural gas production field facilities were not incorporated into the Site Remediation NESHAP. These provisions, under section 112(n)(4)(A) of the CAA, have resulted in incorporation of regulatory text in other regulations that often apply to oil and natural gas production field facilities such as the Oil and Natural Gas Production NESHAP. These provisions were not accounted for in the Site Remediation NESHAP proposed on July 30, 2002. In addition, the issue was not raised by commenters on the proposed rule and, as a result, the final rule does not treat emissions at oil and natural gas production fields differently from those at any other location. Since we believe regulations must be consistent with the CAA, we are proposing amendments to the applicability provisions of the Site Remediation NESHAP to further that outcome. Section 112(n)(4)(A) states:

> Notwithstanding the provisions of subsection (a) of this section, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources, and in the case of any oil and gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this section.

In the Oil and Natural Gas Production NESHAP, 40 CFR part 63 subpart HH, we address the provisions of section 112(n)(4)(A) by limiting the emission points that can be aggregated in the major source determination process at production field facilities. In order to be consistent with both the Oil and Natural Gas Production NESHAP, and section 112 of the CAA, we are proposing amendments to the Site Remediation NESHAP to limit emissions aggregation for major source status determination at production field facilities only, to glycol dehydration units, storage vessels with flash emission potential and site remediation activities. The terms ''production field facility,'' ''glycol dehydration unit,'' and ''storage vessel with the potential for flash emissions'' are all defined terms under the Oil and Natural Gas Production NESHAP (40 CFR 63.761) and will be referenced under the proposed amendments to the Site Remediation NESHAP.

G. Other Rule Editorial Corrections

Table 1 to subpart GGGGG of 40 CFR part 63 lists the specific organic chemical compounds, isomers, and mixtures that are HAP for purposes of implementing the requirements of subpart GGGGG. The version of table 1 to subpart GGGGG published in October 2003 inadvertently included a listing for the compound 1,1-dimethyl hydrazine that we stated in the preamble for the final rule should not have been listed in the table (68 FR 58175). The proposed

amendments would replace table 1 to subpart GGGGG with the correct version of the table excluding the listing for 1,1-dimethyl hydrazine.

Amendments to the regulatory language throughout 40 CFR part 63, subpart GGGGG, are proposed to correct terminology, typographical, section cross-reference, or grammatical errors. These amendments would not change any of the technical or administrative requirements of the final rule.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) we must determine whether the regulatory action is ''significant'' and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this action a ''significant regulatory action'' within the meaning of the Executive Order. The EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The proposed amendments would result in no changes to the information collection requirements of the existing rule. OMB has previously approved the information collection requirements contained in 40 CFR part 63, subpart GGGGG, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2060–0534, EPA ICR number 2062.02. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby; Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW.; Washington, DC 20460 or by calling (202) 566–1672.

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

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

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule amendments on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities that may be directly regulated by the proposed rule include small businesses and small governmental jurisdictions. We have determined that there would be little or no impact on any affected small entities because the proposed rule amendments would amend existing regulations to clarify specific provisions and to correct technical omissions and editorial errors. We continue to be interested in the potential impacts of the proposed rule amendments on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule amendments contain no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal

governments or the private sector. The proposed rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, the proposed rule amendments are not subject to the requirements of section 202 and 205 of the UMRA. In addition, the proposed rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because the burden is small and the regulation does not unfairly apply to small governments. Therefore, the proposed rule amendments are not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

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

The proposed rule amendments do not have federalism implications. Today's action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule amendments would amend existing regulations to clarify specific provisions in the existing regulations and to correct technical omissions and editorial errors. Thus, Executive Order 13132 does not apply to this action.

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

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

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

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The proposed rule is not subject to the Executive Order because it is not economically significant as defined under Executive Order 12866, and because EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. Today's action is based on technology performance and not on health or safety risks and therefore is not subject to Executive Order 13045.

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

Today's action is not a significant energy action: as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy because it only clarifies our intent and corrects errors in the existing rule. Further, we have concluded that the proposed rule amendments are not likely to have any adverse energy effects.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not use available and applicable voluntary consensus standards.

This action does not involve any new technical standards or the incorporation by reference of existing technical standards. Therefore, the consideration of voluntary consensus standards is not relevant to this action.

List of Subjects in 40 CFR Part 63

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

Dated: April 25, 2006.

Stephen L. Johnson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

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

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

Subpart GGGGG—[Amended]

2. Section 63.7881 is amended by revising paragraphs (a)(3) and (c) to read as follows:

§ 63.7881 Am I subject to this subpart?

(a) * * *

(3) Your facility is a major source of HAP as defined in § 63.2, except that for facilities that are production field facilities, as defined in § 63.761, only HAP emissions from glycol dehydration units, storage vessels with the potential for flash emissions (both as defined in § 63.761), and site remediation activities shall be aggregated for a major source determination. A major source emits or has the potential to emit any single HAP at the rate of 10 tons (9.07 megagrams) or more per year or any combination of

HAP at a rate of 25 tons (22.68 megagrams) or more per year.

* * * * *

(c) Your site remediation activities are not subject to the requirements of this subpart, except for the recordkeeping requirements in this paragraph (c), if the total quantity of the HAP listed in Table 1 to this subpart that is contained in the remediation material excavated, extracted, pumped, or otherwise removed during all of the site remediations conducted at your facility in a calendar year is less than 1 megagram per year (Mg/yr). This exemption applies the 1 Mg/yr limit on a facilitywide, calendar-year basis and there is no restriction of the number of site remediations that can be conducted during this period. You must prepare and maintain at your facility written documentation to support your determination that the total HAP quantity in your remediation materials for the year is less than 1 Mg. The documentation must include a description of your methodology and data used for determining the total HAP content of the remediation material.

* * * * *

3. Section 63.7884 is revised to read as follows:

§ 63.7884 What are the general standards I must meet for each site remediation with affected sources?

(a) For each site remediation with affected sources designated under § 63.7882, you must meet the standards specified in §§ 63.7885 through 63.7955, as applicable to your affected sources, unless your site remediation meets the requirements for an exemption under paragraph (b) of this section.

(b) A site remediation that is completed within 30 consecutive calendar days according to the conditions in paragraphs (b)(1) through (3) of this section is not subject to the standards under paragraph (a) of this section. This exemption cannot be used for a site remediation involving the staged or intermittent cleanup of remediation material whereby the remediation activities at the site are started, stopped, and then re-started in a series of intervals with durations less than 30-days per interval for which the total time of all of the intervals required to complete the site remediation exceeds a total of 30 days.

(1) The 30 consecutive calendar day period for a site remediation that qualifies for this exemption is determined according to actions taken by you as defined in paragraphs (b)(1)(i) and (b)(1)(ii) of this section.

(i) The first day of the compliance period is defined as the day on which you initiate any action that removes, destroys, degrades, transforms, immobilizes, or otherwise manages the remediation materials. The following activities, when completed before beginning this initial action, are not counted as part of the 30-day period: Activities to characterize the type and extent of the contamination by collecting and analyzing samples; activities to obtain permits from Federal, State, or local authorities to conduct the site remediation; activities to schedule workers and necessary equipment; and activities to arrange for contractor or third party assistance in performing the site remediation.

(ii) The last day of the compliance period is defined as the day on which treatment or disposal of all of the remediation materials generated by the cleanup is completed such that the organic constituents in these materials no longer have a reasonable potential for volatilizing and being released to the atmosphere.

(2) For the purpose of complying with this paragraph (b)(2), if you ship or otherwise transfer the remediation material off-site you must complete the transfer of all of the material to a facility where your remediation material will be treated or disposed within the 30-day period such that the organic constituents in these materials no longer have a reasonable potential for volatilizing and being released to the atmosphere. If remediation material is to be shipped or otherwise transferred to an off-site facility where the final treatment or disposal of the material cannot be completed within the 30-day period, then the transfer (and subsequent management) of this material is subject to the requirements specified in § 63.7936.

(3) You must prepare and maintain at your facility written documentation describing the exempted site remediation, and listing the initiation and completion dates for the site remediation.

4. Section 63.7886 is amended by revising paragraph (b)(2) to read as follows:

§ 63.7886 What are the general standards I must meet for my affected remediation material management units?

* * * * *

(b) * * *

(2) You determine that the average total VOHAP concentration, as defined in § 63.7957, of the remediation material managed in the remediation material management unit material is less than 500 ppmw. You must follow the requirements in § 63.7943 to demonstrate that the VOHAP concentration of the remediation material is less than 500 ppmw. Once the VOHAP concentration for a remediation material has been determined to be less than 500 ppmw, all remediation material management units downstream from the point of determination managing this material meet the requirements of this paragraph unless a remediation process is used that concentrates all, or part of, the remediation material being managed in the unit such that the VOHAP concentration of the material could increase (e.g., free-product separation).

* * * * *

5. Section 63.7887 is revised to read as follows:

§ 63.7887 What are the general standards I must meet for my affected equipment leak sources?

(a) You must control HAP emissions from equipment leaks from each equipment component that is part of the affected source by implementing leak detection and control measures according to the standards specified in §§ 63.7920 through 63.7922 unless you elect to meet the requirements in paragraph (b) of this section.

(b) If the affected equipment leak source is also subject to another subpart under 40 CFR part 61 or 40 CFR part 63, you may control emissions of the HAP listed in Table 1 to this subpart from the affected equipment leak source in compliance with the standards specified in the other applicable subpart. This means you are complying with all applicable emissions limitations and work practice standards under the other subpart (e.g., you implement leak detection and control measures to reduce HAP emissions as specified by the applicable subpart). This provision does not apply to any exemption of the affected source from the emissions limitations and work practice standards allowed by the other applicable subpart.

6. Section 63.7890 is amended by revising paragraph (b)(2) to read as follows:

§ 63.7890 What emissions limitations and work practice standards must I meet for process vents?

* * * * *

(b) * * *

(2) Reduce from all affected process vents the emissions of total organic compounds (TOC) (minus methane and ethane) to a level below 1.4 kg/hr and 2.8 Mg/yr (3.0 lb/hr and 3.1 tpy); or

* * * * *

7. Section 63.7893 is amended by revising paragraph (b) introductory text to read as follows:

§ 63.7893 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for process vents?

* * * * *

(b) You must maintain emission levels from all of your affected process vents to meet the facilitywide emission limits in § 63.7890(b) that apply to you, as specified in paragraphs (b)(1) through (4) of this section.

* * * * *

8. Section 63.7896 is amended by revising paragraph (b)(2) to read as follows:

§ 63.7896 How do I demonstrate initial compliance with the emissions limitations and work practice standards for tanks?

* * * * *

(b) * * *

(2) You have determined, according to the procedures in § 63.7944, and recorded the maximum HAP vapor pressure of the remediation material placed in each affected tank subject to § 63.7886(b)(1)(i) that does not use Tank Level 2 controls.

* * * * *

9. Section 63.7898 is amended by revising paragraph (e)(2) to read as follows:

§ 63.7898 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for tanks?

* * * * *

(e) * * *

(2) Visually inspecting the external floating roof according to the requirements in § 63.1063(d)(1) and inspecting the seals according to the requirements in § 63.1063(d)(2) and (3).

* * * * *

10. Section 63.7903 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

§ 63.7903 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for containers?

(a) You must demonstrate continuous compliance with the emission limitations and work practice standards in § 63.7900 applicable to your affected containers by meeting the requirements in paragraphs (b) through (e) of this section.

(b) You must demonstrate continuous compliance with the requirement to determine the applicable container control level specified in § 63.7900(b) for each affected container by meeting the requirements in paragraphs (b)(1) through (3) of this section.

* * * * *

11. Section 63.7913 is amended by revising paragraph (c) introductory text to read as follows:

§ 63.7913 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for separators?

* * * * *

(c) You must demonstrate continuous compliance for each separator using a fixed roof vented through a closed vent system to a control device according to § 63.7910(b)(2) by meeting the requirements in paragraphs (c)(1) through (6) of this section.

* * * * *

12. Section 63.7915 is amended by revising paragraph (c)(2) to read as follows:

§ 63.7915 What emissions limitations and work practice standards must I meet for transfer systems?

* * * * *

(c) * * *

(2) A transfer system that consists of continuous hard-piping. All joints or seams between the pipe sections must be permanently or semi-permanently sealed (e.g., a welded joint between two sections of metal pipe or a bolted and gasketed flange).

* * * * *

13. Section 63.7917 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 63.7917 What are my inspection and monitoring requirements for transfer systems?

* * * * *

(c) If you operate a transfer system consisting of hard piping according to § 63.7917(c)(2), you must annually inspect the unburied portion of pipeline and all joints for leaks and other defects.* * *

* * * * *

14. Section 63.7918 is amended by revising paragraph (e) introductory text to read as follows:

§ 63.7918 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for transfer systems?

* * * * *

(e) You must demonstrate continuous compliance for each transfer system that is enclosed and vented to a control device according to § 63.7915(c)(3) by meeting the requirements in paragraphs (e)(1) through (5) of this section.

* * * * *

15. Section 63.7927 is amended by revising paragraph (b)(3) to read as follows:

§ 63.7927 What are my inspection and monitoring requirements for closed vent systems and control devices?

* * * * *

(b) * * *

(3) Use a CPMS to measure and record the hourly average temperature of the adsorption bed after regeneration (and within 15 minutes after completing any cooling cycle).

* * * * *

16. Section 63.7928 is amended by revising paragraphs (b)(6), (b)(7) and (c) introductory text to read as follows:

§ 63.7928 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for closed vent systems and control devices?

* * * * *

(b) * * *

(6) If the closed vent system is equipped with a flow indicator, recording the information in § 63.693(c)(2)(i).

(7) If the closed vent system is equipped with a seal or locking device, visually inspecting the seal or closure mechanism at least monthly according to the requirements in § 63.693(c)(2)(ii), and recording the results of each inspection.

(c) You must demonstrate continuous compliance of each control device subject to the emissions limits in § 63.7925(d) with the applicable emissions limit in § 63.7925(d) by meeting the requirements in paragraph (c)(1) or (2) of this section.

* * * * *

17. Section 63.7937 is amended by revising paragraphs (c)(2) and (c)(4)(ii) to read as follows:

§ 63.7937 How do I demonstrate initial compliance with the general standards?

* * * * *

(c) * * *

(2) If the remediation material managed in the affected remediation material management unit has an average total VOHAP concentration less than 500 ppmw according to § 63.7886(b)(2), you have submitted as part of your notification of compliance status, specified in § 63.7950, a signed statement that you have determined, according to the procedures in § 63.7943, and recorded the average VOHAP concentration of the remediation material placed in the affected remediation material management unit.

* * * * *

(4) * * *

(ii) You will monitor the biological treatment process conducted in each

unit according to the requirements in § 63.684(e)(4).

* * * * *

18. Section 63.7938 is amended by revising paragraph (c)(4)(ii) to read as follows:

§ 63.7938 How do I demonstrate continuous compliance with the general standards?

* * * * *

(c) * * *

(4) * * *

(ii) Monitoring the biological treatment process conducted in each unit according to the requirements in § 63.7886(4)(i).

* * * * *

19. Section 63.7940 is amended by revising paragraph (c) to read as follows:

§ 63.7940 By what date must I conduct performance tests or other initial compliance demonstrations?

* * * * *

(c) For new sources, you must conduct initial performance tests and other initial compliance demonstrations according to the provisions in § 63.7(a)(2).

20. Section 63.7941 is amended as follows:

a. Revise paragraph (c);

b. Revise paragraph (g); and

c. Remove and reserve paragraph (h).

§ 63.7941 How do I conduct a performance test, design evaluation, or other type of initial compliance demonstration?

* * * * *

(c) If you use a carbon adsorption system, condenser, vapor incinerator, boiler, or process heater to meet an emission limit in this subpart, you may choose to perform a design evaluation to demonstrate initial compliance instead of a performance test. You must perform a design evaluation according to the general requirements in § 63.693(b)(8) and the specific requirements in § 63.693(d)(2)(ii) for a carbon adsorption system (including establishing carbon replacement schedules and associated requirements), § 63.693(e)(2)(ii) for a condenser, § 63.693(f)(2)(ii) for a vapor incinerator, or § 63.693(g)(2)(i)(B) for a boiler or process heater.

* * * * *

(g) If you are required to conduct a visual inspection of an affected source, you must conduct the inspection according to the procedures in § 63.906(a)(1) for Tank Level 1 controls, § 63.1063(d) for Tank Level 2 controls, § 63.926(a) for Container Level 1 controls, § 63.946(a) for a surface impoundment equipped with a floating membrane cover, § 63.946(b) for a surface impoundment equipped with a cover and vented to a control device, § 63.1047(a) for a separator with a fixed roof, § 63.1047(c) for a separator equipped with a fixed roof and vented to a control device, § 63.695(c)(1)(i) or (c)(2)(i) for a closed vent system, and § 63.964(a) for individual drain systems.

(h) [Reserved]

* * * * *

21. Section 63.7943 is amended as follows:

a. Revise paragraph (a);

b. Revise paragraph (b) introductory text;

c. Revise paragraphs (b)(1) introductory text and (b)(3); and

d. Revise paragraph (c) introductory text.

§ 63.7943 How do I determine the average VOHAP concentration of my remediation material?

(a) General requirements. You must determine the average total VOHAP concentration of a remediation material using either direct measurement as specified in paragraph (b) of this section or by knowledge as specified in paragraph (c) of this section. These methods may be used to determine the average VOHAP concentration of any material listed in (a)(1) through (3) of this section.

(1) A single remediation material stream; or

(2) Two or more remediation material streams that are combined prior to, or within, a remediation material management unit or treatment process; or

(3) Remediation material that is combined with one or more non-remediation material streams prior to, or within, a remediation material management unit or treatment process.

(b) Direct measurement. To determine the average total VOHAP concentration of a remediation material using direct measurement, you must use the procedures in paragraphs (b)(1) through (3) of this section.

(1) Sampling. Samples of each material stream must be collected from the container, pipeline, or other device used to deliver each material stream prior to entering the remediation material management unit or treatment process in a manner such that volatilization of organics contained in the sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

* * * * *

(3) Calculations. The average total VOHAP concentration ($\bar{C}$) on a mass-weighted basis must be calculated by using the results for all samples analyzed according to paragraph (b)(2) of this section and Equation 1 of this section as follows:

$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^{n} (Q_i \times C_i) \qquad \text{(Eq. 1)}$$

Where:

$\bar{C}$ = Average VOHAP concentration of the material on a mass-weighted basis, ppmw.

i = Individual sample ''i'' of the material.

n = Total number of samples of the material collected (at least 4 per stream) for the averaging period (not to exceed 1 year).

Q_i = Mass quantity of material stream represented by C_i, kilograms per hour (kg/hr).

Q_T = Total mass quantity of all material during the averaging period, kg/hr.

C_i = Measured VOHAP concentration of sample ''i'' as determined according to the requirements of paragraph (b)(2) of this section, ppmw.

(c) Knowledge of the material. To determine the average total VOHAP concentration of a remediation material using knowledge, you must use the procedures in paragraphs (c)(1) through (3) of this section.

* * * * *

22. Section 63.7956 is amended by revising paragraph (c) introductory text to read as follows:

§ 63.7956 Who implements and enforces this subpart?

* * * * *

(c) The authorities that cannot be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

* * * * *

23. Section 63.7957 is amended by removing the definition of ''Point-of-extraction'' and revising the definitions of ''Deviation'' and ''Transfer system'' to read as follows:

§ 63.7957 What definitions apply to this subpart?

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation (including any operating limit), or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation (including any operating limit), or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or

not such failure is permitted by this subpart.

* * * * *

Transfer system means a stationary system for which the predominant function is to convey liquids or solid materials from one point to another point within a waste management operation or recovery operation. For the purpose of this subpart, the conveyance of material using a container (as defined for this subpart) or a self-propelled vehicle (*e.g.*, a front-end loader) is not a transfer system. Examples of a transfer system include but are not limited to a pipeline, an individual drain system, a gravity-operated conveyor (such as a chute), and a mechanically-powered conveyor (such as a belt or screw conveyor).

* * * * *

24. Table 1 to Subpart GGGGG of Part 63 is revised to read as follows:

TABLE 1 TO SUBPART GGGGG OF PART 63.—LIST OF HAZARDOUS AIR POLLUTANTS

CAS No. [a]	Compound name	$F_{m\,305}$
75070	Acetaldehyde	1.000
75058	Acetonitrile	0.989
98862	Acetophenone	0.314
98862	Acetophenone	0.314
107028	Acrolein	1.000
107131	Acrylonitrile	0.999
107051	Allyl chloride	1.000
71432	Benzene (includes benzene in gasoline)	1.000
98077	Benzotrichloride (isomers and mixture)	0.958
100447	Benzyl chloride	1.000
92524	Biphenyl	0.864
542881	Bis(chloromethyl)ether[b]	0.999
75252	Bromoform	0.998
106990	1,3-Butadiene	1.000
75150	Carbon disulfide	1.000
56235	Carbon Tetrachloride	1.000
43581	Carbonyl sulfide	1.000
133904	Chloramben	0.633
108907	Chlorobenzene	1.000
67663	Chloroform	1.000
107302	Chloromethyl methyl ether[b]	1.000
126998	Chloroprene	1.000
98828	Cumene	1.000
94757	2,4–D, salts and esters	0.167
334883	Diazomethane[c]	0.999
132649	Dibenzofurans	0.967
96128	1,2-Dibromo-3-chloropropane	1.000
106467	1,4-Dichlorobenzene (p)	1.000
107062	Dichloroethane (Ethylene dichloride)	1.000
111444	Dichloroethyl ether (Bis (2-chloroethylether))	0.757
542756	1,3-Dichloropropene	1.000
79447	Dimethyl carbamoyl chloride[c]	0.150
64675	Diethyl sulfate	0.0025
77781	Dimethyl sulfate	0.086
121697	N,N-Dimethylaniline	0.0008
51285	2,4-Dinitrophenol	0.0077
121142	2,4-Dinitrotoluene	0.0848
123911	1,4-Dioxane (1,4-Diethyleneoxide)	0.869
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	0.939
106887	1,2-Epoxybutane	1.000
140885	Ethyl acrylate	1.000
100414	Ethyl benzene	1.000
75003	Ethyl chloride (Chloroethane)	1.000
106934	Ethylene dibromide (Dibromoethane)	0.999
107062	Ethylene dichloride (1,2-Dichloroethane)	1.000
151564	Ethylene imine (Aziridine)	0.867
75218	Ethylene oxide	1.000
75343	Ethylidene dichloride (1,1-Dichloroethane)	1.000
	Glycol ethers[d] that have a Henry's Law Constant value equal to or greater than 0.1 Y/X(1.8×10^{-6} atm/gm-mole/m^3) at 25 °C.	[e]
118741	Hexachlorobenzene	0.97
87683	Hexachlorobutadiene	0.88
67721	Hexachloroethane	0.499
110543	Hexane	1.000
78591	Isophorone	0.506
58899	Lindane (all isomers)	1.000
67561	Methanol	0.855
74839	Methyl bromide (Bromomethane)	1.000
74873	Methyl chloride (Choromethane)	1.000
71556	Methyl chloroform (1,1,1-Trichloroethane)	1.000
78933	Methyl ethyl ketone (2-Butanone)	0.990
74884	Methyl iodide (Iodomethane)	1.000

TABLE 1 TO SUBPART GGGGG OF PART 63.—LIST OF HAZARDOUS AIR POLLUTANTS—Continued

CAS No. [a]	Compound name	$F_{m\,305}$
108101	Methyl isobutyl ketone (Hexone)	0.979
624839	Methyl isocyanate	1.000
80626	Methyl methacrylate	0.999
1634044	Methyl tert butyl ether	1.000
75092	Methylene chloride (Dichloromethane)	1.000
91203	Naphthalene	0.994
98953	Nitrobenzene	0.394
79469	2-Nitropropane	0.989
82688	Pentachloronitrobenzene (Quintobenzene)	0.839
87865	Pentachlorophenol	0.0898
75445	Phosgene [c]	1.000
123386	Propionaldehyde	0.999
78875	Propylene dichloride (1,2-Dichloropropane)	1.000
75569	Propylene oxide	1.000
75558	1,2-Propylenimine (2-Methyl aziridine)	0.945
100425	Styrene	1.000
96093	Styrene oxide	0.830
79345	1,1,2,2-Tetrachloroethane	0.999
127184	Tetrachloroethylene (Perchloroethylene)	1.000
108883	Toluene	1.000
95534	o-Toluidine	0.152
120821	1,2,4-Trichlorobenzene	1.000
71556	1,1,1-Trichloroethane (Methyl chlorform)	1.000
79005	1,1,2-Trichloroethane (Vinyltrichloride)	1.000
79016	Trichloroethylene	1.000
95954	2,4,5-Trichlorophenol	0.108
88062	2,4,6-Trichlorophenol	0.132
121448	Triethylamine	1.000
540841	2,2,4-Trimethylpentane	1.000
108054	Vinyl acetate	1.000
593602	Vinyl bromide	1.000
75014	Vinyl chloride	1.000
75354	Vinylidene chloride (1,1-Dichloroethylene)	1.000
1330207	Xylenes (isomers and mixture)	1.000
95476	o-Xylenes	1.000
108383	m-Xylenes	1.000
106423	p-Xylenes	1.000

Notes:
$F_{m\,305}$ Fraction measure factor in Method 305, 40 CFR 305 part 63, appendix A.
[a] CAS numbers refer to the Chemical Abstracts Services registry number assigned to specific compounds, isomers, or mixtures of compounds.
[b] Denotes a HAP that hydrolyzes quickly in water, but the hydrolysis products are also HAP chemicals.
[c] Denotes a HAP that may react violently with water.
[d] Denotes a HAP that hydrolyzes slowly in water.
[e] The $F_{m\,305}$ factors for some of the more common glycol 305 ethers can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.

25. Table 3 to Subpart GGGGG is amended by revising the entry for ''63.7(c)'' to read as follows:

TABLE 3 TO SUBPART GGGGG OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART GGGGG

* * * * * * *

Citation	Subject	Brief description	Applies to Subpart GGGGG
*	*	*	*
§ 63.7(c)	Quality Assurance/Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: Test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
*	*	*	*

[FR Doc. 06–4080 Filed 4–28–06; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 27, 37, 38

[Docket No. OST–2006–23985]

RIN 2105–AD54

Transportation for Individuals With Disabilities

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Extension of comment period on proposed rule.

SUMMARY: The Department is extending through July 28, 2006, the period for interested persons to submit comments to its proposed rule concerning modifications to the Department's Americans with Disabilities Act and related rules.

DATES: Comments must be received by July 28, 2006. Comments received after this date will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by the docket number [OST–2006–23985] by any of the following methods: (1) Federal eRulemaking Portal: *http://www.regulations.gov* (follow the instructions for submitting comments); (2) Web Site: *http://dms.dot.gov* (follow the instructions for submitting comments on the DOT electronic docket site); (3) Fax: 1–202–493–2251; (4) Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001; or (5) Hand Delivery: To the Docket Management System; Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

You should include the agency name and docket number [OST–2006–23985] or the Regulatory Identification Number (RIN) for this notice at the beginning of your comment. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act section of this document. You may view the public docket through the Internet at *http://dms.dot.gov* or in person at the Docket Management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, 400 7th Street, SW., Room 10424, Washington DC 29590. Phone: 202–366–9310. TTY: 202–755–7687. Fax: 202–366–9313. E-mail: *bob.ashby@dot.gov* .

SUPPLEMENTARY INFORMATION: On February 27, 2006, the Department of Transportation (DOT or Department) issued a notice of proposed rulemaking (NPRM) that proposed to amend the Department's Americans with Disabilities Act (ADA) rule and related regulations (71 FR 9761). The proposed amendments concerned a variety of subjects, including rail station platform accessibility and ADA paratransit system requirements. The NPRM also sought comment on several upcoming issues of interest concerning surface transportation accessibility. The comment closing dates were April 28 for the proposed amendments to the ADA and related rules and May 28 for the other issues on which the Department sought comment.

On April 7, 2006, Amtrak, supported by the Association of American Railroads, requested an extension of the comment period through July 28, 2006, citing concerns about the effects of proposed amendments concerning rail station platform accessibility on its statutory obligation to make its stations accessible by 2010.

The Department agrees that an extension of the comment period would be useful to permit Amtrak additional time to assess its situation with respect to rail station accessibility, as it may be affected by the proposed rule. In addition, such an extension will give other parties additional time to consider the issues the NPRM raises and provide thoughtful comments to the Department. Accordingly, the Department finds that good cause exists to extend the comment period on the proposed rule from April 28, 2006, to July 28, 2006. This extension applies to all parts of the NPRM.

Issued in Washington, DC, this 24th day of April, 2006.

Jeffrey A. Rosen,

General Counsel.

[FR Doc. 06–4069 Filed 4–28–06; 8:45 am]
BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 060406098–6098–01; I.D. 030706D]

RIN 0648–AT46

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments. Notice; availability of Environmental Assessment.

SUMMARY: NMFS has received a request from the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) for an authorization to take small numbers of marine mammals, by harassment, incidental to permitting professional fireworks displays within the Sanctuary in California waters. By this document, NMFS is proposing regulations to govern that take. In order to issue a Letter of Authorization (LOA) and issue final regulations governing the take, NMFS must determine that the taking will have a negligible impact on the species or stocks and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses.

DATES: Comments and information must be received no later than May 31, 2006.

ADDRESSES: Comments on the application and proposed rule may be submitted using the identifier 030706D, by any of the following methods:

E-mail: *PR1.030706D@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

Federal e-Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Hand-delivery or mailing of paper, disk, or CD-ROM comments should be addressed to: Stephen L. Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

A copy of the application containing a list of references used in this document may be obtained by writing to the above address, by telephoning the contact listed under **FOR FURTHER**