

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

*B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 30, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Maryland’s 2008 8-hour ozone NAAQS Certification SIP revision for NNSR may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 11, 2018.

**Cosmo Servidio,**  
*Regional Administrator, Region III.*

40 CFR part 52 is amended 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 V—Maryland**

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding the entry “2008 8-Hour Ozone NAAQS Nonattainment New Source Review Requirements” at the end of the table to read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* 2008 8-Hour Ozone NAAQS Nonattainment New Source Review Requirements.	* The Baltimore Area (includes Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the city of Baltimore), the Philadelphia-Wilmington-Atlantic City Area (includes Cecil County in Maryland), and the Washington, DC Area (includes Calvert, Charles, Frederick, Montgomery, and Prince Georges Counties in Maryland).	* 5/8/2017	* 1/29/2018, [insert <b>Federal Register</b> citation].	* 

[FR Doc. 2018–01518 Filed 1–26–18; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA–HQ–OAR–2012–0360; FRL–9972–89–OAR]

**RIN 2060–AT48**

**National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notification of final action on reconsideration.

**SUMMARY:** This action finalizes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (OSWRO). The final amendments address continuous monitoring on pressure relief devices (PRDs) on containers. This issue was raised in a petition for reconsideration of the 2015 amendments to the OSWRO NESHAP, which were based on the residual risk and technology review (RTR). Among other things, the 2015 amendments established additional monitoring requirements for all PRDs, including PRDs on containers. For PRDs on containers, these monitoring

requirements were in addition to the inspection and monitoring requirements for containers and their closure devices already required by the OSWRO NESHAP. This final action removes the additional monitoring requirements for PRDs on containers that resulted from the 2015 amendments because we have determined that they are not necessary. This action does not substantially change the level of environmental protection provided under the OSWRO NESHAP, but reduces burden to this industry compared to the current rule by \$28 million in capital costs related to compliance, and \$4.2 million per year in total annualized costs under a 7 percent interest rate. Over 15 years at a 7-percent discount rate, this constitutes an estimated reduction of \$39 million in

the present value, or \$4.3 million per year in equivalent annualized cost savings.

**DATES:** This final action is effective on January 29, 2018.

**ADDRESSES:** The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA-HQ-OAR-2012-0360. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet, and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov>, or in hard copy at the EPA Docket Center, (EPA/DC), EPA WJC West Building, Room Number 3334, 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 EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, please contact Ms. Angie Carey, Sector Policies and Programs Division (E143-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2187; fax number: (919) 541-0246; email address: [carey.angela@epa.gov](mailto:carey.angela@epa.gov). For information about the applicability of the NESHAP to a particular entity, contact Ms. Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building, Mail Code 2227A, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-7042; fax number: (202) 564-0050; and email address: [mia.marcia@epa.gov](mailto:mia.marcia@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Acronyms and Abbreviations.* A number of acronyms and abbreviations are used in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined:

ACC American Chemistry Council  
 CAA Clean Air Act  
 CBI Confidential Business Information  
 CFR Code of Federal Regulations  
 DOT Department of Transportation  
 EPA Environmental Protection Agency  
 ETC Environmental Technology Council

FR Federal Register  
 HAP Hazardous air pollutants  
 NESHAP National emission standards for hazardous air pollutants  
 OMB Office of Management and Budget  
 OSWRO Off-site waste and recovery operations  
 PRD Pressure relief device  
 RCRA Resource Conservation and Recovery Act  
 RTR Residual risk and technology review  
 TSDF Treatment, storage and disposal facilities

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

- I. General Information
  - A. What is the source of authority for the reconsideration action?
  - B. Does this action apply to me?
  - C. Where can I get a copy of this document and other related information?
  - D. Judicial Review and Administrative Reconsideration
- II. Background Information
- III. Summary of Final Action on Issues Reconsidered
  - A. What is the history of OSWRO monitoring requirements for PRDs on containers?
  - B. How does this final rule differ from the August 7, 2017, proposal?
  - C. What comments were received on the August 7, 2017, proposed revised container PRD monitoring requirements?
  - D. What is the rationale for our final decisions regarding the container PRD monitoring requirements?
- IV. Summary of Cost, Environmental and Economic Impacts, and Additional Analyses Conducted
  - A. What are the affected sources?
  - B. What are the air quality impacts?
  - C. What are the cost impacts?
  - D. What are the economic impacts?
  - E. What are the benefits?
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
  - B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs
  - C. Paperwork Reduction Act (PRA)
  - D. Regulatory Flexibility Act (RFA)
  - E. Unfunded Mandates Reform Act (UMRA)
  - F. Executive Order 13132: Federalism
  - G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
  - I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
  - J. National Technology Transfer and Advancement Act (NTTAA)
  - K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

L. Congressional Review Act (CRA)

**I. General Information**

*A. What is the source of authority for the reconsideration action?*

The statutory authority for this action is provided by sections 112, 301 and 307(d)(7)(B) of the Clean Air Act (CAA) (42 U.S.C. 7412, 7601 and 7607(d)(7)(B)).

*B. Does this action apply to me?*

Categories and entities potentially regulated by this action include, but are not limited to, businesses or government agencies that operate any of the following: Hazardous waste treatment, treatment storage and disposal facilities (TSDF); Resource Conservation and Recovery Act (RCRA) exempt hazardous wastewater treatment facilities; nonhazardous wastewater treatment facilities other than publicly-owned treatment works; used solvent recovery plants; RCRA exempt hazardous waste recycling operations; and used oil refineries.

To determine whether your facility is affected, you should examine the applicability criteria in 40 Code of Federal Regulations (CFR) 63.680 of subpart DD. If you have any questions regarding the applicability of any aspect of these NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

The docket number for this final action regarding the NESHAP for the OSWRO source category is Docket ID No. EPA-HQ-OAR-2012-0360.

In addition to being available in the docket, an electronic copy of this document 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/site-waste-and-recovery-operations-oswro-national-emission>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents on this same website.

*D. Judicial Review and Administrative Reconsideration*

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by March 30, 2018. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with

reasonable specificity during the period for public comment can be raised during judicial review. Note, 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 these requirements.

This section also provides a mechanism for the EPA to reconsider the rule “[i]f 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, EPA WJC West 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 Information

On March 18, 2015, the EPA promulgated a final rule amending the OSWRO NESHAP based on the RTR conducted for the OSWRO source category (80 FR 14248). In that final rule, the EPA also amended the OSWRO NESHAP to revise provisions related to emissions during periods of startup, shutdown, and malfunction; to add requirements for electronic reporting of performance testing; to add monitoring requirements for PRDs; to revise routine maintenance provisions; to clarify provisions for open-ended valves and lines and for some performance test methods and procedures; and to make several minor clarifications and corrections. After publication of the final rule, the EPA received a petition for reconsideration submitted jointly by Eastman Chemical Company and the American Chemical Council (ACC) (dated May 18, 2015). This petition sought reconsideration of two of the amended provisions of the OSWRO NESHAP: (1) The equipment leak provisions for connectors, and (2) the requirement to continuously monitor PRDs on containers.

The EPA considered the petition and granted reconsideration of the PRD monitoring requirement in letters to the

petitioners dated February 8, 2016. In separate letters to the petitioners dated May 5, 2016, the Administrator denied reconsideration of the equipment leak provisions for connectors and explained the reasons for the denial in these letters. These letters are available in the OSWRO NESHAP amendment rulemaking docket. The EPA also published a **Federal Register** notice on May 16, 2016 (81 FR 30182), informing the public of these responses to the petition.

On May 18, 2015, ACC filed a petition for judicial review of the OSWRO NESHAP RTR challenging numerous provisions in the final rule, including the issues identified in the petition for administrative reconsideration. *American Chemistry Council v. EPA*, U.S. Court of Appeals for the DC Circuit, Case No. 15–1146. In 2016, the EPA and ACC reached an agreement to resolve that case. Specifically, the parties agreed to a settlement under which ACC agrees it will dismiss its petition for review of the 2015 final rule if the EPA reconsiders certain PRD provisions and signs a proposed and final rule in accordance with an agreed-upon schedule. The settlement agreement was finalized on June 15, 2017.

As a result of our reconsideration, the Agency proposed and requested comment on revised monitoring requirements for PRDs on containers in a notice of proposed rule reconsideration published in the **Federal Register** on August 7, 2017 (82 FR 36713). We received public comments from seven parties. Copies of all comments submitted are available at the EPA Docket Center Public Reading Room. Comments are also available electronically through <http://www.regulations.gov> by searching Docket ID No. EPA–HQ–OAR–2012–0360.

In this document, the EPA is finalizing the revised monitoring requirements, as proposed in the August 7, 2017 (82 FR 36713), document. In addition, in this document we are making one clerical correction and we are clarifying the information needed to meet the reporting requirements in the event a PRD on a container releases hazardous air pollutants (HAP) to the atmosphere. Section III of this preamble summarizes the history of OSWRO monitoring requirements for PRDs on containers, explains how the proposed and final regulatory language differs, summarizes key public comments received on the proposed notice of reconsideration, presents the EPA’s responses to these comments, and explains our rationale for the rule revisions published here. Additional

comments and EPA’s responses to those comments are included in the Summary of Public Comments and Responses on Proposed Rule, in the docket for this rulemaking (Docket No. EPA–HQ–OAR–2012–0360).

## III. Summary of Final Action on Issues Reconsidered

This action finalizes the EPA’s reconsideration and amendment of the continuous monitoring requirements that apply to PRDs on containers. This issue is discussed in detail in the following sections of this preamble.

### A. What is the history of OSWRO monitoring requirements for PRDs on containers?

In the March 18, 2015, amendments to 40 CFR part 63, subpart DD, the EPA changed the compliance monitoring requirement for PRDs. Since the rule does not distinguish between PRDs on stationary process equipment and those on containers, the monitoring requirements applied to all PRDs. These revised compliance monitoring provisions included requirements to conduct additional PRD monitoring continuously to identify a pressure release, to record the time and duration of each pressure release and to notify operators immediately when a pressure release occurs. The EPA received a petition objecting to these additional continuous monitoring requirements for PRDs on containers and requesting reconsideration. In 40 CFR part 63, subpart DD, containers are, by definition, portable units that hold material. The petitioners’ concern was that because containers are portable, frequently moved around OSWRO facilities, and are received from many different off-site locations, it would be difficult, if not impossible, to design and implement a monitoring system for containers that would meet the 2015 rule requirements. When the OSWRO NESHAP were finalized in 2015, the EPA was not aware of equipment meeting the definition of a PRD on containers in the OSWRO industry, and any potential issues associated with the PRD monitoring requirements were not considered for this equipment.

In response to the petition, the EPA reevaluated the PRD monitoring requirements in the 2015 rule as they pertain to containers, considering the other requirements that apply to containers and their PRDs, and the PRD data submitted to the EPA by ACC and the Environmental Technology Council (ETC). Following this evaluation, on August 7, 2017, we proposed to revise the monitoring requirements to exclude PRDs on OSWRO containers from the

continuous monitoring and related requirements of 40 CFR 63.691(c)(3)(i). This proposed revision was based on our determination that the PRD inspection and monitoring requirements already included in the OSWRO NESHAP are effective and sufficient. Our review of information provided by ACC and ETC showed that the emissions potential from PRDs on containers at OSWRO facilities is low. Additionally, continuous monitoring of these PRDs, as contemplated by 40 CFR 63.691(c)(3)(i), would be both costly and difficult.

*B. How does this final rule differ from the August 7, 2017, proposal?*

In this action, the EPA is finalizing the revised container PRD monitoring requirements as proposed on August 7, 2017. We are also correcting a clerical error in the proposed regulatory text of 40 CFR 63.691(c)(3) to refer to § 63.680(e)(1)(i) through (iii). In addition, we are revising the regulatory text in CFR 63.691(c)(3)(ii) to clarify that monitoring data are not required to be used in the calculation of HAP emitted during a pressure release event for containers.

The proposed language of 40 CFR 63.691(c)(3)(ii) states that if there is a PRD release to the atmosphere, the owner or operator must calculate and report the HAP emitted, and the calculation may be based on “data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.” We acknowledged at proposal that it would be difficult, if not impossible, to design and implement a monitoring system for containers that would meet the 2015 rule requirements (82 FR at 36715). In recognition of this, we examined whether it would be appropriate to require calculating and reporting of HAP emitted during a PRD pressure release event, and we determined that facility owners/operators would still be able to provide this information through knowledge of the container contents and the weight or volume of the contents before and after the event. It was not our intention to require monitoring data in addition to such process knowledge. Therefore, we have revised the regulatory language of 40 CFR 63.691(c)(3)(ii) accordingly to clarify that monitoring data are not required to be used in the calculation of HAP emitted during a pressure release event for containers.

*C. What comments were received on the August 7, 2017, proposed revised container PRD monitoring requirements?*

The following is a summary of the key comments received in response to our August 2017 proposal and our responses to these comments. Additional comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0360).

*Comment:* Three commenters expressed support for the proposed removal of the continuous monitoring requirements added to the OSWRO NESHAP in 2015 for PRDs on containers. These commenters noted that data in the record indicate container releases are extremely rare and do not justify imposing additional regulatory burdens. Two of these commenters also stated that with the additional container data gathered by the Agency, the EPA has correctly concluded that it would be “difficult if not impossible, to design and implement a monitoring system for containers that would meet the 2015 rule requirements.” One of the commenters added that the significant cost burdens associated with the monitoring requirements to address the small likelihood of a container PRD release is unsupported.

In contrast, one commenter stated that the EPA cannot remove monitoring requirements (*i.e.*, the continuous monitoring requirements of the 2015 rule) that are needed to assure compliance with the prohibition on releases from container PRDs. The commenter stated that the proposed monitoring exemption is equivalent to an unlawful malfunction exemption from the standards. The commenter also stated that the EPA has not shown, or supported with evidence, that visual inspections will catch problems with PRDs on containers. The commenter further stated that the EPA did not provide evidence that it is not possible to design a monitoring system for container PRDs and suggests that some other continuous monitoring, such as fenceline monitoring, could be done if monitoring is not possible for individual PRDs.

*Response:* We are finalizing, as proposed, provisions providing that PRDs on containers are not subject to the continuous monitoring requirements at 40 CFR 63.691(c)(3)(i), and we have not added any other container inspection or monitoring requirements. We have determined that the PRD inspection and monitoring requirements

in 40 CFR part 63, subpart PP that apply to containers at OSWRO facilities and are already incorporated into the requirements of the OSWRO NESHAP are effective and sufficient. Depending on the size of the container, the vapor pressure of the container contents, and how the container is used (*i.e.*, temporary storage and/or transport of the material versus waste stabilization), the rule requires the OSWRO owners or operators to follow the requirements for either Container Level 1, 2, or 3 control requirements, as specified in the Container NESHAP at 40 CFR part 63, subpart pp. Each control level specifies requirements to ensure the integrity of the container and its ability to contain its contents (*e.g.*, requirements, to meet U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation, or vapor tightness as determined by EPA Method 21, or no detectable leaks as determined by EPA Method 27); requirements for covers and closure devices (which include pressure relief valves as that term is defined in the Container NESHAP at 40 CFR 63.921); and inspection and monitoring requirements for containers and their covers and closure devices pursuant to the Container NESHAP at 40 CFR 63.926. The inspection and monitoring requirements for containers at 40 CFR 63.926, which are already incorporated into the OSWRO NESHAP by 40 CFR 63.688, require that unless the container is emptied within 24 hours of its receipt at the OSWRO facility, the OSWRO owner/operator is required on or before they sign the shipping manifest accepting a container to visually inspect the container and its cover and closure devices (which include PRDs). If a defect of the container, cover, or closure device is identified, the Container NESHAP specify the time period within which the container must be either emptied or repaired. The Container NESHAP require subsequent annual inspections of the container, its cover, and closure devices in the case where a container remains at the facility and has been unopened for a period of 1 year or more. Therefore, the PRD continuous monitoring requirements in the 2015 OSWRO NESHAP at 40 CFR 63.691(c)(3)(i) are in addition to the requirements to inspect and monitor container PRDs (as closure devices) already in the OSWRO NESHAP per the requirements of the subpart PP Container NESHAP at 40 CFR 63.688.

In addition to the NESHAP requirements, nearly all OSWRO containers are subject to DOT regulatory requirements to ensure their safe design,

construction, and operation while in transport, and which also limit the potential for air emissions due to leaks, spills, explosions, etc. The DOT regulations at 49 CFR part 178, Specifications for Packagings or 49 CFR part 179, Specifications for Tank Cars, prescribe specific design, manufacturing, and testing requirements for containers that will be transported by motor vehicles. Additionally, 49 CFR part 180, Continuing Qualification and Maintenance of Packagings, includes requirements for periodic inspections, testing, and repair of containers, which would minimize the chance of an atmospheric release from a PRD. All containers that bring RCRA hazardous waste on-site are subject to these DOT requirements, and any PRDs on those containers would similarly be subject to these requirements. Most OSWRO facilities are also subject to weekly RCRA inspection requirements in § 264.15(b)(4) and § 265.15(b)(4), as well as daily RCRA inspection requirements in § 264.174 and § 265.174. These RCRA inspection requirements apply to owners or operators of all hazardous waste facilities. Therefore, including comparable requirements in the OSWRO NESHAP would substantially overlap with existing requirements.

The data provided by ACC and ETC indicated that almost every facility reported that they unload their containers daily, so if a release from such a PRD on a container were to occur, the facility would likely detect it during the unloading that happens on a daily basis. We understand, based on our review of PRD data provided by ACC and ETC, that PRD releases from containers are rare, the emissions potential from these container PRDs is low, and the additional monitoring requirements for PRDs on the containers that would be required under the 2015 OSWRO NESHAP would be difficult and costly relative to the low emissions potential. In addition, alternative forms of continuous monitoring for container PRDs, such as fence-line monitoring or similar static systems, would not be appropriate for measuring emissions specifically from PRDs on containers, because the inventory of container units at the facilities is dynamic and the units are moved around the facilities' property.

Removing the continuous monitoring requirements from PRDs on containers is not equivalent to an unlawful malfunction exemption. This action does not alter the OSWRO NESHAP's prohibition on releases to the atmosphere from all PRDs at 40 CFR 63.691(c)(3). Therefore, malfunctions that cause PRD releases are not exempt

from regulation. Additionally, the EPA determined that the monitoring is sufficient after considering the monitoring and inspection requirements already applicable to these containers, including the inspection requirements in 40 CFR part 63, subpart PP, as described above, while also evaluating other monitoring options and the low risk of release from these units.

*Comment:* Several commenters provided responses to the EPA's requests for comments related to imposing additional inspection requirements for containers. These requests included whether the EPA should impose more frequent inspections for any filled or partially-filled OSWRO container that remains on-site longer than 60 days; whether any additional inspection requirements should apply to all containers or only apply to larger containers; and whether to also incorporate into the OSWRO NESHAP the inspection requirements of Air Emission Standards for Equipment Leaks in 40 CFR part 264, subpart BB, and 40 CFR part 265, subpart BB, and RCRA and Air Emission Standards for Tanks, Surface Impoundments, and Containers in 40 CFR part 264, subpart CC, and 40 CFR part 265, subpart CC. Three commenters stated that they do not believe additional inspections of container PRDs are necessary for any containers. The commenters noted that facilities are already required to meet the inspection and monitoring requirements of 40 CFR part 63, subpart PP, and most are also subject to the inspection requirements of 40 CFR parts 264 and 265, subparts BB and CC. For larger containers, such as tank cars and rail cars, one of these commenters pointed out that DOT or Federal Railroad Administration inspection, testing and repair requirements would apply. These commenters also noted that most facilities subject to the OSWRO NESHAP are already subject to the RCRA subparts BB and CC inspections requirements. The commenters stated that any of the additional inspection requirements contemplated by the EPA would only overlap with the requirements of existing rules and would not provide any additional benefits.

*Response:* Considering the responses to our requests for comment regarding including additional inspection requirements for containers, we are not adding any other container inspection or monitoring requirements to the OSWRO NESHAP. As noted above, in the proposal we explained the basis for our proposed conclusion that the container PRD inspection and monitoring requirements already

incorporated into the OSWRO NESHAP would be effective and sufficient to ensure compliance with the proposed container PRD requirements. No new information has been provided to suggest that additional inspection or monitoring requirements are needed.

*D. What is the rationale for our final decisions regarding the container PRD monitoring requirements?*

For the reasons provided above, as well as in the preamble for the proposed rule and in the comment summary and response document available in the docket, we are finalizing our proposal that PRDs on OSWRO containers will not be subject to the continuous monitoring requirements at 40 CFR 63.691(c)(3)(i). For the reasons provided above, we are making the correction and clarification noted in section III.B in the final rule.

#### **IV. Summary of Cost, Environmental and Economic Impacts, and Additional Analyses Conducted**

*A. What are the affected sources?*

We estimate that 49 existing sources will be affected by the revised monitoring requirements being finalized in this action.

*B. What are the air quality impacts?*

We are finalizing revised requirements for PRD monitoring on containers on the basis that the inspection and monitoring requirements in 40 CFR part 63, subpart PP incorporated into the OSWRO NESHAP are effective and sufficient. We project that the final standard will not result in any change in emissions compared to the 2015 OSWRO NESHAP.

*C. What are the cost impacts?*

When the OSWRO NESHAP were finalized in 2015, the EPA was not aware of equipment meeting the definition of a PRD on containers in the OSWRO industry, and costs associated with the PRD release event prohibition and continuous monitoring requirements were not estimated for this equipment. Therefore, the capital and annualized costs in the 2015 final rule were underestimated, as these costs were not included. To determine the impacts of the 2015 final rule, considering the continuous monitoring requirements for PRDs on containers based on the data now available to the EPA from ACC and ETC, we estimated costs and potential emission reductions associated with wireless PRD monitors for containers. Using vendor estimates for wireless PRD monitor costs, we estimate the average per facility capital costs of continuous wireless container

PRDs monitoring to be approximately \$570,000, and the estimated industry (49 facilities) capital costs of continuous wireless container PRD monitoring would be approximately \$28 million. The total annualized costs of continuous wireless container PRD monitoring per facility (assuming a 15-year equipment life and a 7-percent interest rate) are estimated to be approximately \$85,000 and approximately \$4.2 million for the industry. Therefore, by removing the requirement to monitor PRDs on containers continuously, we estimate the impact of this final rule to be an annual reduction of \$4.2 million. Cost information, including wireless PRD monitor costs, is available in the docket for this action.

#### *D. What are the economic impacts?*

We performed a national economic impact analysis for the 49 OSWRO facilities affected by this revised rule. The national costs under this final rule, accounting for the data provided by ACC and the ETC, are \$1.3 million in capital costs in 2018, or \$200,000 in total annualized costs.<sup>1</sup> Over 15 years, this is an estimated present value of total costs of \$1.9 million, or equivalent annualized costs of \$200,000 per year.<sup>2</sup> These costs constitute a \$28 million reduction in the capital cost or a \$4.2 million reduction in total annualized costs compared to the revised baseline costs of the requirements as written in the 2015 rule, which include costs of continuous PRD monitoring.<sup>3</sup> Over 15 years, the present value of cost savings are estimated at \$39 million, or \$4.3 million per year in equivalent annualized cost savings, compared to the revised baseline.<sup>4</sup> More information and details of this analysis are provided in the technical document, “Final Economic Impact Analysis for the Reconsideration of the 2015 NESHAP: Off-Site Waste and Recovery Operations,” which is available in the docket for this action.

<sup>1</sup> We assume affected facilities will start incurring costs in 2018. This total annualized cost assumes an interest rate of 7-percent. Total annualized costs under a 3-percent interest rate are \$170,000 per year.

<sup>2</sup> These costs assume a 7-percent discount rate. Under a 3-percent discount rate, the present value of costs is estimated to be \$2.0 million, and the equivalent annualized costs are estimated to be \$170,000 per year.

<sup>3</sup> This reduction in total annualized costs assumes a 7-percent interest rate. Annualized cost reductions are \$3.4 million assuming a 3-percent interest rate.

<sup>4</sup> These cost savings assume a 7-percent discount rate. Under a 3-percent discount rate, the present value of cost savings is \$42 million, and the equivalent annualized value of cost savings is \$3.5 million per year.

#### *E. What are the benefits?*

We project that this final standard will not result in any change in emissions compared to the existing OSWRO NESHAP.

#### **V. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.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. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs*

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the EPA’s analysis of the potential costs and benefits associated with this action.

##### *C. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 63, subpart DD, under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 1717.11. The final amendments removed continuous monitoring requirements for PRDs on containers, and these final amendments do not affect the estimated information collection burden of the existing rule. You can find a copy of the Information Collection Request in the docket at Docket ID No. EPA-HQ-OAR-2012-0360 for this rule.

##### *D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This rule relieves regulatory burden by reducing

compliance costs associated with monitoring PRDs on containers. The Agency has determined that of the 28 firms that own the 49 facilities in the OSWRO source category, two firms, or 7 percent, can be classified as small firms. The cost to sales ratio of the reconsidered cost of the monitoring requirements for these two firms is significantly less than 1 percent. In addition, this action constitutes a burden reduction compared to the re-estimated costs of the 2015 rule as promulgated. We have, therefore, concluded that this action does not have a significant impact on a substantial number of small entities. For more information, see the “Final Economic Impact Analysis for the Reconsideration of the 2015 NESHAP: Off-Site Waste and Recovery Operations” which is available in the rulemaking docket.

##### *E. Unfunded Mandates Reform Act (UMRA)*

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

##### *F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. This 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because 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. The EPA's risk assessments for the 2015 final rule (Docket ID No. EPA-HQ-OAR-2012-0360) demonstrate that the current regulations are associated with an acceptable level of risk and provide an ample margin of safety to protect public health and prevent adverse environmental effects. This final action does not alter those conclusions.

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

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

*J. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). In the 2015 final rule, the EPA determined that the current health risks posed by emissions from this source category are acceptable and provide an ample margin of safety to protect public health and prevent adverse environmental effects. To gain a better understanding of the source category and near source populations, the EPA conducted a proximity analysis for OSWRO facilities prior to proposal in 2014 to identify any overrepresentation of minority, low income, or indigenous populations. This analysis gave an indication of the prevalence of subpopulations that might be exposed to air pollution from the sources. We revised this analysis to include four additional OSWRO facilities that the EPA learned about after proposal for the 2015 rule. The EPA determined that the final rule would not have disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations. The revised proximity analysis results and the details concerning its development are presented in the memorandum titled, Updated Environmental Justice Review: Off-Site Waste and Recovery Operations RTR, available in the docket for this

action (Docket Document ID No. EPA-HQ-OAR-2012-0360-0109). This final action does not alter the conclusions made in the 2015 final rule regarding this analysis.

*L. Congressional Review Act (CRA)*

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

**List of Subjects in 40 CFR Part 63**

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 18, 2018.

**E. Scott Pruitt,**  
*Administrator.*

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) is amending title 40, chapter I, of the Code of Federal Regulations (CFR) 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 DD—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations**

■ 2. Section 63.691 is amended by revising paragraph (c)(3) introductory text and paragraph (c)(3)(ii) to read as follows:

**§ 63.691 Standards: Equipment leaks.**

\* \* \* \* \*

(c) \* \* \*

(3) *Pressure release management.*

Except as provided in paragraph (c)(4) of this section, emissions of HAP listed in Table 1 of this subpart may not be discharged directly to the atmosphere from pressure relief devices in off-site material service, and according to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time, as established in § 63.680(e)(1)(i) through (iii), the owner or operator must comply with the requirements specified in paragraphs (c)(3)(i) and (ii) of this section for all pressure relief devices in off-site material service, except that containers

are not subject to the obligations in paragraph (c)(3)(i) of this section.

\* \* \* \* \*

(ii) If any pressure relief device in off-site material service releases directly to the atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of HAP listed in Table 1 of this subpart released during each pressure release event and report this quantity as required in § 63.697(b)(5). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge. For containers, the calculations may be based on process knowledge and information alone.

\* \* \* \* \*

[FR Doc. 2018-01512 Filed 1-26-18; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Part 3160**

[LLWO310000 L13100000 PP0000 18X]

RIN 1004-AE51

**Onshore Oil and Gas Operations—Annual Civil Penalties Inflation Adjustments**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule adjusts the level of civil monetary penalties contained in the Bureau of Land Management's (BLM) regulations governing onshore oil and gas operations as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and consistent with applicable Office of Management and Budget (OMB) guidance. The adjustments made by this final rule constitute the 2018 annual inflation adjustments, accounting for one year of inflation spanning the period from October 2016 through October 2017.

**DATES:** This rule is effective on January 29, 2018.

**FOR FURTHER INFORMATION CONTACT:** Steven Wells, Division Chief, Fluid Minerals Division, 202-912-7143, for information regarding the BLM's Fluid Minerals Program. For questions relating to regulatory process issues, please contact Jennifer Noe, Division of Regulatory Affairs, at 202-912-7442. Persons who use a telecommunications