

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 2019. 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 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, Ammonia, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 12, 2018.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 F—California**

■ 2. Section 52.220 is amended by adding paragraph (c)(513)(ii)(B) to read as follows:

**§ 52.220 Identification of plan—in part.**

\* \* \* \* \*

(c) \* \* \*

(513) \* \* \*

(ii) \* \* \*

(B) *South Coast Air Quality*

*Management District.* (1) The following portions of the “Final 2016 Air Quality Management Plan (March 2017),” adopted March 3, 2017: Chapter 5 (“PM<sub>2.5</sub> Modeling Approach”), pages 5–17 through 5–27; Appendix III (“Base and Future Emission Inventory”), Attachment A (“Annual Average Emissions by Source Category in South Coast Air Basin”) for PM<sub>2.5</sub>, NO<sub>x</sub>, SO<sub>2</sub>, VOC, and NH<sub>3</sub> for years 2012, 2017, 2019, and 2020 and Attachment D, tables D–1, D–3, D–7 and D–9; Appendix IV–A (“SCAQMD’s Stationary and Mobile Source Control Measures”), Table IV–A–4 and section 2 (“PM<sub>2.5</sub> Control Measures”); Appendix IV–C

(“Regional Transportation Strategy and Control Measures”), section IV (“TCM Best Available Control Measure (BACM) Analysis for 2006 24-Hour and 2012 Annual PM<sub>2.5</sub> NAAQS”); Appendix V (“Modeling and Attainment Demonstration”), Chapter 7 (“24-hour PM<sub>2.5</sub> Demonstration”) and Attachment 8 (“24-hour Unmonitored Area Analysis Supplement”); Appendix VI–A (“Reasonably Available Control Measures (RACM)/Best Available Control Measures (BACM) Demonstration”), pages VI–A–13 through VI–A–42, Attachment VI–A–1 (“Evaluation of SCAQMD Rules and Regulations”), Attachment VI–A–2 (“Control Measure Assessment”), and Attachment VI–A–3 (“California Mobile Source Control Program Best Available Control Measures/Reasonably Available Control Measures Assessment”); Appendix VI–C (“Reasonable Further Progress (RFP) and Milestone Years”), pages VI–C–5 through VI–C–8, and Attachment VI–C–1 (“California Existing Mobile Source Control Program”); Appendix VI–D (“General Conformity and Transportation Conformity Budget”), pages VI–D–2 through VI–D–6 and excluding tables VI–D–1 through 3; and Appendix VI–F (“Precursor Requirements”).

(2) Letter dated March 14, 2018 from Philip Fine, Deputy Executive Officer, Planning, Rule Development, and Area Sources, South Coast Air Quality Management District, to Amy Zimpfer, Associate Director, Air Division, EPA Region IX.

(3) Letter dated June 15, 2018 from Philip Fine, Deputy Executive Officer, Planning, Rule Development, and Area Sources, South Coast Air Quality Management District, to Amy Zimpfer, Associate Director, Air Division, EPA Region IX, regarding “Condensable and Filterable Portions of PM<sub>2.5</sub> Emissions in the 2016 AQMD.”

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[FR Doc. 2019–01922 Filed 2–11–19; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA–HQ–OAR–2003–0194; FRL–9988–83–OAR]

RIN 2060–AT70

**National Emission Standards for Hazardous Air Pollutants: Leather Finishing Operations Residual Risk and Technology Review**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This action finalizes the residual risk and technology review (RTR) conducted for the Leather Finishing Operations source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing startup, shutdown, and malfunction (SSM), electronic reporting, and clarification of rule provisions. These final amendments address emissions during periods of SSM, add electronic reporting, and revise certain rule requirements and provisions. Although these amendments will not reduce emissions of hazardous air pollutants (HAP), they are expected to improve compliance and implementation of the rule.

**DATES:** This final rule is effective on February 12, 2019.

**ADDRESSES:** The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0194. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <https://www.regulations.gov>, or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, contact Mr. Bill Schrock, Natural Resources Group, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5032; fax number: (919) 541–0516; and email address: [schrock.bill@epa.gov](mailto:schrock.bill@epa.gov). For specific information regarding the risk modeling methodology, contact Matthew Woody, Health and Environmental Impacts Division (C539–

02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-1535; fax number: (919) 541-0840; and email address: [woody.matthew@epa.gov](mailto:woody.matthew@epa.gov). For information about the applicability of the NESHAP to a particular entity, contact John Cox, 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) 564-1395; and email address: [cox.john@epa.gov](mailto:cox.john@epa.gov).

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

- CAA Clean Air Act
- CDX Central Data Exchange
- CEDRI Compliance and Emissions Data Reporting Interface
- CRA Congressional Review Act
- ERT Electronic Reporting Tool
- HAP hazardous air pollutant(s)
- HI hazard index
- HQ hazard quotient
- ICR Information Collection Request
- MACT maximum achievable control technology
- NEI National Emissions Inventory
- NESHAP national emission standards for hazardous air pollutants
- NTTAA National Technology Transfer and Advancement Act
- OMB Office of Management and Budget
- REL recommended exposure limit
- RFA Regulatory Flexibility Act
- RIN Regulatory Information Number
- RTO regenerative thermal oxidizer
- RTR risk and technology review
- SSM startup, shutdown, and malfunction
- TOSHI target organ-specific hazard index
- UMRA Unfunded Mandates Reform Act
- VCS voluntary consensus standards

**Background information.** On March 14, 2018 (83 FR 11314), the EPA proposed revisions to the Leather Finishing Operations NESHAP based on our RTR. On May 15, 2018 (83 FR 22438), the EPA re-opened the comment period on the proposed rule that closed on April 30, 2018, extending the comment period to June 14, 2018. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the

document titled *Summary of Public Comments and the EPA's Responses for the Proposed Risk and Technology Review and Amendments for the Leather Finishing Operations NESHAP*, in Docket ID No. EPA-HQ-OAR-2003-0194. A "track changes" version of the regulatory language that incorporates the changes in this action is available in the docket.

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

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  - 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. Does this action apply to me?*

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

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

NESHAP and source category	NAICS <sup>1</sup> code
Leather finishing operations .....	3161

<sup>1</sup> North American Industry Classification System.

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

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

In addition to being available in the docket, an electronic copy of this final action will also be available on the

internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: <https://www.epa.gov/stationary-sources-air-pollution/leather-finishing-operations-national-emission-standards-hazardous>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at <https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html>. This information includes an overview of the RTR program, links to project websites for the RTR source categories, and detailed emissions and other data we used as inputs to the risk assessments.

### C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by April 15, 2019. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

## II. Background

### A. What is the statutory authority for this action?

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

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

environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them "as necessary (taking into account developments in practices, processes, and control technologies)" no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).<sup>1</sup> For more information on the statutory authority for this rule, see 83 FR 11314, March 14, 2018.

### B. What is the Leather Finishing Operations source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Leather Finishing Operations NESHAP on February 27, 2002 (67 FR 9156). The standards are codified at 40 CFR part 63, subpart TTTT. The leather finishing industry consists of facilities that adjust and improve the physical and aesthetic characteristics of the leather surface through the multistage application of a coating comprised of dyes, pigments, film-forming materials, and performance modifiers dissolved or suspended in liquid carriers. The Leather Finishing Operations NESHAP does not apply to equipment used solely for leather tanning operations or to portions of leather finishing operations using a solvent degreasing process subject to the Halogenated Solvent Cleaning NESHAP (see 40 CFR 63.5290(c)). The source category covered by this MACT

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

standard currently includes four facilities.

Leather finishing is considered a dry operation as opposed to the “wet-end” operations associated with leather tanning. As further discussed in section II.B of the proposal preamble (83 FR 11314, March 14, 2018), leather finishing operations can be co-located with wet-end tannery operations or performed in stand-alone facilities; however, equipment used solely for leather tanning (or retanning) operations is not subject to the Leather Finishing Operations NESHAP. In the dry-end leather finishing operations, coatings are typically applied to the leather substrate using spray, roll, and flow coating techniques. The emission source types subject to the emission limits under the Leather Finishing Operations NESHAP include, but are not limited to, coating and spraying equipment, coating storage and mixing, and dryers. Refer to section II.B of the proposal preamble (83 FR 11314, March 14, 2018) for discussion of emissions from these and additional emission source types, including the HAP emitted.

The MACT standards address emissions from four types of leather product process operations: (1) Upholstery leather with greater than or equal to 4 grams of add-on finish per square foot of leather, (2) upholstery leather with less than 4 grams of add-on finish per square foot of leather, (3) water-resistant leather, and (4) non-water-resistant leather. The standards limit emissions from new and existing leather finishing operations and are expressed in terms of total HAP emissions per 1,000 square feet of leather processed over a rolling 12-month compliance period. Sources must record the mass of HAP in coatings applied to the leather either through an inventory mass balance or “measure-as-applied” approach. Using the mass balance approach, sources may choose to account for disposal of excess finish instead of assuming any excess finish is also emitted. Emissions are calculated based on the assumption that the entire HAP content of the applied finish is released to the environment. Sources using an add-on control device may account for the emission reduction achieved from the control device as measured by a performance test conducted in accordance with the requirements of the Leather Finishing Operations NESHAP. We are not finalizing any revisions to the numerical emission limits nor to the methods for determining compliance with these limits.

*C. What changes did we propose for the Leather Finishing Operations source category in our March 14, 2018, proposal?*

On March 14, 2018, the EPA published a proposed rule in the **Federal Register** for the Leather Finishing Operations NESHAP, 40 CFR part 63, subpart TTTT, that took into consideration the RTR analyses. In the proposed rule, we proposed amendments to the SSM provisions of the MACT rule, a new requirement to electronically report performance test data, and clarifications to certain monitoring, recordkeeping, and reporting requirements for control devices and the provisions for alternative schedules, as well as a correction to the title of Table 2 to 40 CFR part 63, subpart TTTT. We proposed no revisions to the numerical emission limits based on our technology review and risk analyses.

### III. What is included in this final rule?

This action finalizes the EPA’s determinations pursuant to the RTR provisions of CAA section 112 for the Leather Finishing Operations source category. This action also finalizes other changes to the NESHAP, including amendments to the SSM provisions, addition of electronic reporting of performance test data, and clarifications to certain monitoring, recordkeeping, and reporting requirements for control devices and the provisions for alternative schedules, as well as a correction to the title of Table 2 to 40 CFR part 63, subpart TTTT.

*A. What are the final rule amendments based on the risk review for the Leather Finishing Operations source category?*

We found risk due to emissions of air toxics to be acceptable from this source category and determined that the current NESHAP provides an ample margin of safety to protect public health and prevents an adverse environmental effect. Therefore, we did not propose and are not finalizing any revisions to the Leather Finishing Operations NESHAP based on our analyses conducted under CAA section 112(f).

*B. What are the final rule amendments based on the technology review for the Leather Finishing Operations source category?*

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

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

We are finalizing the proposed amendments to the Leather Finishing Operations NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club v. EPA*, 551 F.3d 1019 (DC Cir. 2008), the Court vacated portions of two provisions in the EPA’s CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA’s requirement that some CAA section 112 standards apply continuously. As detailed in section IV.C of the proposal preamble (83 FR 11314, March 14, 2018), the Leather Finishing Operations NESHAP requires that the standards apply at all times (see 40 CFR 63.5320(a)), consistent with the Court decision in *Sierra Club v. EPA*, 551 F. 3d 1019 (DC Cir. 2008). The EPA took into account startup and shutdown periods in the 2002 rulemaking by applying a standard based on total coating used and HAP content and requiring a mass balance compliance method that was applicable for all operations, even periods of startup and shutdown. As a result, the EPA is not finalizing any changes to the current requirement that all standards apply during those periods. Refer to section IV.C of the March 14, 2018, proposal preamble for further discussion of the EPA’s rationale for this decision.

Further, the EPA is not finalizing standards for malfunctions. As discussed in section IV.C of the March 14, 2018, proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. For the Leather Finishing Operations source category, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. There are no instances where pollution control equipment could malfunction because none of the four facilities subject to the Leather Finishing Operations NESHAP use pollution control equipment. Further, the standards are expressed as a yearly rolling average, and compliance is primarily dependent on the coating’s

HAP composition. Therefore, a malfunction of process equipment is not likely to result in a violation of the standards, and we have no information to suggest that it is feasible or necessary to establish standards for any type of malfunction associated with leather finishing operations. Refer to section IV.C of the March 14, 2018, proposal preamble for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given that administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

As is explained in more detail below, we are finalizing two proposed revisions to the General Provisions table to 40 CFR part 63, subpart TTTT, to eliminate two General Provisions that include rule language providing an exemption for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. Finally, we are finalizing our proposal to revise the Deviation Notification Report and related records as they relate to malfunctions, as further described below. As discussed in section IV.C of the March 14, 2018, proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.5320(a) that the standards apply at all times. Refer to sections III.C.1 through 5 of this preamble for a detailed discussion of these amendments.

#### 1. 40 CFR 63.5320(b) General Duty

We are finalizing as proposed revision of the General Provisions table to 40 CFR part 63, subpart TTTT (Table 2), entry for 40 CFR 63.6(e) by combining all of paragraph (e) into one row and changing the "yes" in column four to "no." We are replacing reference to 40 CFR 63.6(e) with new general duty regulatory text at 40 CFR 63.5320(b) that reflects the general duty to minimize emissions while eliminating the reference in 40 CFR 63.6(e) to periods covered by an SSM exemption. Refer to section IV.D.1.a of the proposal preamble (83 FR 11314, March 14, 2018) for further discussion of this revision.

#### 2. 40 CFR 63.5360(b) Compliance With Standards

We are finalizing as proposed removal of the sentence, "This includes periods of startup, shutdown, and malfunction." in 40 CFR 63.5360(b), which refers to the requirement to report each instance in which a source did not meet the standard. Refer to section IV.D.1.b of the proposal preamble (83 FR 11314, March 14, 2018) for further discussion of this revision.

#### 3. 40 CFR 63.5380 Performance Testing

We are finalizing as proposed revision of the General Provisions table to 40 CFR part 63, subpart TTTT (Table 2), entry for 40 CFR 63.7(e)(1) by adding a separate row for 40 CFR 63.7(e)(1) and specifying "no" in column four. We are replacing reference to 40 CFR 63.7(e)(1) with a performance testing requirement at 40 CFR 63.5380(b). Refer to section IV.D.1.c of the proposal preamble (83 FR 11314, March 14, 2018) for further discussion of these revisions.

#### 4. 40 CFR 63.5430 Recordkeeping

We are finalizing as proposed revision of the Deviation Notification Report to include two new reporting elements: (1) An estimate of the quantity of HAP emitted during the 12-month period of the report in excess of the standard, and (2) the cause of the events that resulted in the deviation from the standard (including unknown cause, if applicable). We are finalizing the proposed requirement that any source submitting a Deviation Notification Report also keep a record of this information, as well as a record of the actions taken to minimize emissions, and we are finalizing revision of 40 CFR 63.5420(b)(3) to clarify records already required. Finally, we are finalizing as proposed revision of the General Provisions table to 40 CFR part 63, subpart TTTT (table 2), entry for 40 CFR 63.10(b)(2) to clarify the recordkeeping requirements for facilities that deviate from the standards as a result of a malfunction. Refer to section IV.D.1.d of the proposal preamble (83 FR 11314, March 14, 2018) for further discussion of these revisions.

#### 5. 40 CFR 63.5420 Reporting

We are finalizing as proposed revision of the General Provisions table to subpart TTTT (Table 2) entry for 40 CFR 63.10(d)(5) to clarify the reporting requirements for facilities that deviate from the standards as a result of a malfunction. We are finalizing as proposed revision of 40 CFR 63.5420(b)(3) to clarify that the Deviation Notification Report should include an indication of the 12-month

period of the report. We are also finalizing as proposed two new reporting elements to include in the Deviation Notification Report: (1) the cause of the events that resulted in the source failing to meet the standard as determined under 40 CFR 63.5330 (*i.e.*, the compliance ratio exceeds 1.00) during the 12-month period (including unknown cause, if applicable) and (2) an estimate of the quantity of HAP (in pounds) emitted during the 12-month period of the report in excess of the standard, calculated by subtracting the "Allowable HAP Loss" from the "Actual HAP Loss." Refer to section IV.D.1.e of the proposal preamble (83 FR 11314, March 14, 2018) for further discussion of these revisions.

#### 6. 40 CFR 63.5460 Definitions

We are finalizing as proposed revision of the definition of "Deviation" to read "Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source, fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limits or work practice standards." This revision removes language that differentiated between normal operations, startup, and shutdown, and malfunction events. Refer to section IV.D.1.f of the proposal preamble (83 FR 11314, March 14, 2018) for further discussion of this revision.

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

We are finalizing as proposed amendments to the Leather Finishing Operations NESHAP to clarify the monitoring, recordkeeping, and reporting requirements for control devices and the provisions for alternative schedules and to correct the title of Table 2 to 40 CFR part 63, subpart TTTT. Refer to section IV.D.3 of the proposal preamble (83 FR 11314, March 14, 2018) for a detailed description of these amendments.

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

The revisions to the MACT standards being promulgated in this action are effective on February 12, 2019. The compliance date for existing leather finishing operations is February 12, 2019. New sources must comply with all of the standards immediately upon the effective date of the standard, February 12, 2019, or upon startup, whichever is later. The tasks necessary for existing facilities to comply with these proposed amendments related to SSM periods will require no time or resources. No facilities will be subject to

the requirement to submit reports electronically (see below). Therefore, existing facilities will be able to comply with these proposed amendments related to SSM periods and the use of the electronic reporting software discussed in section III.F of this preamble as soon as the final rule is effective, which will be the date of publication of the final rule in the **Federal Register**.

*F. What are the requirements for submission of performance test data to the EPA?*

As we proposed, the EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is finalizing the requirement for owners and operators of leather finishing operations facilities to submit electronic copies of certain required performance test reports.

Data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. This EPA-provided software is an electronic performance test report tool called the Electronic Reporting Tool (ERT). The ERT will generate an electronic report package, which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description of the ERT and instructions for using ERT can be found at <https://www3.epa.gov/ttn/chief/ert/index.html>. CEDRI can be accessed through the CDX website (<https://www.epa.gov/cdx>).

The EPA estimates that no existing leather finishing operation subject to the Leather Finishing Operations NESHP uses a control device to comply with the NESHP. As such, no existing leather

finishing operation will conduct performance tests or submit electronic copies of test reports.

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT website. The EPA believes, through this approach, industry will save time in the performance test submittal process. Additionally, this rulemaking benefits industry by reducing recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept in hard copy.

State, local, and tribal agencies may benefit from more streamlined and accurate review of performance test data that will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble of the proposal (83 FR 11314, March 14, 2018).

In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, tribal agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories and air quality regulations.

**IV. What is the rationale for our final decisions and amendments for the Leather Finishing Operations source category?**

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the document titled *Summary of Public Comments and the EPA's Responses for the Proposed Risk and Technology Review and Amendments for the Leather Finishing Operations NESHP*, in the docket for this action.

*A. Residual Risk Review for the Leather Finishing Operations Source Category*

1. What did we propose pursuant to CAA section 112(f) for the Leather Finishing Operations source category?

Pursuant to CAA section 112(f), we conducted a residual risk review and presented the results for the review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the March 14, 2018, proposed rule for the Leather Finishing Operations source category (83 FR 11314). The results of the risk assessment are presented briefly in Table 2 of this preamble and in more detail in the residual risk document titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule*, in the docket for this action.

**TABLE 2—LEATHER FINISHING OPERATIONS INHALATION RISK ASSESSMENT RESULTS IN THE MARCH 2018 PROPOSAL [83 FR 11314, March 14, 2018]**

Number of facilities <sup>1</sup>	Maximum individual cancer risk (in 1 million) <sup>2</sup>		Estimated population at increased risk of cancer ≥1-in-1 million		Estimated Annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI <sup>3</sup>		Maximum screening acute noncancer hazard quotient (HQ) <sup>4</sup>
	Based on actual emissions level <sup>2</sup>	Based on allowable emissions level	Based on actual emissions level <sup>2</sup>	Based on allowable emissions level	Based on actual emissions level <sup>2</sup>	Based on allowable emissions level	Based on actual emissions level	Based on allowable emissions level	Based on actual emissions level
4.	0	0	0	0	0	0	0.04	0.3	H <sub>QREL</sub> = 3 (propyl cellosolve and glycol ethers).

<sup>1</sup> Number of facilities evaluated in the risk analysis.

<sup>2</sup> Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

<sup>3</sup> Maximum target organ-specific hazard index (TOSHI). The target organ with the highest TOSHI for the Leather Finishing Operations source category is the reproductive target organ.

<sup>4</sup> The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value; for propyl cellosolve and glycol ethers, this is the recommended exposure limit (REL).

The results of the inhalation risk modeling using actual emissions data, as shown in Table 2 of this preamble, indicate the maximum chronic

noncancer TOSHI value could be up to 0.04. While we would have estimated incremental individual lifetime cancer risks as discussed in section III.C.3.b of

the preamble to the proposed amendments (83 FR 11314, March 14, 2018), there were no carcinogenic HAP emissions from this source category, so

the maximum lifetime individual cancer risk is 0, and the total estimated national cancer incidence from these facilities based on actual emission levels is no excess cancer cases per year.

Table 2 of this preamble indicates that for the Leather Finishing Operations source category, the maximum HQ is 3, driven by propyl cellosolve and glycol ethers. The only acute dose-response value for propyl cellosolve and glycol ethers is the REL; therefore, only the HQ<sub>REL</sub> is provided. Refinement of the acute risk results was performed using aerial photos to ensure that the location where the maximum risk was projected to occur was, in fact, a location where the general public could be exposed. The result of this refinement confirmed that the maximum acute risk result occurred where the public could potentially be exposed. This refinement, therefore, had no impact on the maximum HQ. For more detailed acute risk results, refer to the draft residual risk assessment document titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule*, in the docket for this action.

An assessment of risk from facility-wide emissions was performed to provide context for the source category risks. Using the National Emissions Inventory (NEI) data described in sections II.C and III.C of the preamble to the proposed amendments (83 FR 11314, March 14, 2018), the maximum cancer risk in the facility-wide assessment was 0.09-in-1 million, and the maximum chronic noncancer hazard index (HI) was 0.1 (for the reproductive system), both driven by emissions from external combustion boilers.

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities, and we found that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1. The methodology and the results of the demographic analysis are presented in a technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Leather Finishing Operations*, in the docket for this action.

We weighed all health risk factors in our risk acceptability determination and we proposed that the risk posed by emissions from this source category is acceptable. We then considered whether the NESHAP provides an ample margin

of safety to protect public health and whether more stringent standards were necessary to prevent an adverse environmental effect by taking into consideration costs, energy, safety, and other relevant factors. In determining whether the standards provide an ample margin of safety to protect public health, we examined the same risk factors that we investigated for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. As noted in the discussion of the ample margin of safety analysis in the preamble to the proposed rule on March 14, 2018 (83 FR 11328), we considered options for further reducing gaseous organic HAP emissions from leather finishing operations. We considered the reduction in gaseous organic HAP emissions that could be achieved by the application of a biological treatment unit, the use of a concentrator followed by a regenerative thermal oxidizer (RTO), and the use of a concentrator followed by biological treatment. The total annual cost per facility of a rotary concentrator alone or biological treatment alone ranges from \$43,000 to \$417,000 per year. Application of a concentrator followed by an RTO would achieve an estimated annual HAP emission reduction of 5.2 tpy, and application of a concentrator plus biological treatment would achieve an estimated annual HAP emission reduction of 4.5 tpy. The corresponding cost effectiveness for application of a rotary concentrator or biological treatment would range from \$30,000 and \$110,000 per ton of HAP removed, respectively. Due to our determinations that cancer risk is below 1-in-1 million and that the maximum chronic noncancer TOSHI value is below 1, uncertainties associated with the acute screening risk estimate (refer to the risk report titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule*, in the docket for this action), and the substantial costs associated with the control options, we proposed that additional standards for this source category are not required to provide an ample margin of safety to protect public health, and that the current standards provide an ample margin of safety to protect public health. Based on the results of our environmental risk screening assessment, we also proposed that more stringent standards are not necessary to

prevent an adverse environmental effect.

2. How did the risk review change for the Leather Finishing Operations source category?

Since proposal (83 FR 11314, March 14, 2018), neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety or adverse environmental effects have changed.

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

We received various comments related to the risk review and some commenters requested that we make changes to our residual risk review results and approach. However, we evaluated the comments and determined that no changes to our risk assessment methods or conclusions are warranted. An in-depth account of the comments and responses is located in the memorandum titled *Summary of Public Comments and the EPA's Responses for the Proposed Risk and Technology Review and Amendments for the Leather Finishing Operations NESHAP*, in the docket for this action. The following paragraphs discuss the major comments we received and our responses.

*Comment:* One commenter stated that there is evidence of hexavalent chromium emissions from leather finishing operations and leather tanning processes and products, questioning why the EPA did not evaluate these emissions and health risks and establish emission standards accordingly. The commenter referenced NEI data showing hexavalent chromium emissions from leather finishing facilities.

*Response:* We disagree that there is evidence of hexavalent chromium emissions from the Leather Finishing Operations source category. The NEI data cited by the commenter represent hexavalent chromium emissions from boilers at the Tasman and S.B. Foot facilities subject to the Leather Finishing Operations NESHAP, but boilers are not subject to the Leather Finishing Operations NESHAP, and, thus, such data do not create a basis for the EPA to evaluate emissions and health risks of hexavalent chromium for source types at any facility subject to the Leather Finishing Operations NESHAP. The NEI does not include hexavalent chromium emission data for any other emission source types at any facility subject to the Leather Finishing Operations NESHAP. The EPA is not aware of any source of hexavalent chromium emissions data for the leather

finishing operations subject to the Leather Finishing Operations NESHAP, and the commenters have provided no such data. The references cited by the commenters focus primarily on the leather tanning processes, which do not occur at the facilities covered by the Leather Finishing Operations NESHAP. Additionally, the references cited do not directly address air emissions of hexavalent chromium from leather finishing operations and are, therefore, not relevant to this rulemaking. Two references cited by the commenter mention the possibility of spontaneous oxidation of trivalent chromium into its hexavalent form in post-tanning operations, but the references do not provide any hexavalent chromium emissions data, and no such data exist for any of the leather finishing operations subject to the Leather Finishing Operations NESHAP. As a result, there is no basis for the EPA to evaluate the emissions and health risks of hexavalent chromium from these four facilities.

*Comment:* One commenter provided data for actual monthly HAP use for the S.B. Foot Tanning Co. facility subject to the Leather Finishing Operations NESHAP, stating that the data indicate that hourly emissions could be up to 1.5 times greater than the emissions rate that the EPA used to estimate acute exposures. The data provided by the commenter show monthly HAP emissions for the S.B. Foot Tanning Co. facility based on data of actual monthly HAP use by the facility over a 4-year period (*i.e.*, 51 data points). To compare with the EPA's calculated acute HAP emissions rate (*i.e.*, 0.00467 tons/hour) for the facility, the commenter estimated the average hourly rate of HAP emissions for each month in the 4-year period using the facility's actual monthly HAP usage values and monthly operating hours. To show months in which the facility's estimated hourly HAP emissions rate exceeded the EPA's estimated acute hourly HAP emissions rate for the S.B. Foot Tanning Co. facility, the commenter calculated for each month the ratio of the commenter's hourly HAP emissions rate to the EPA's calculated acute HAP emissions rate. Ratios above 1.0 would show months in which the facility's estimated hourly HAP emissions rate exceeds the EPA's acute hourly HAP emissions rate, calling into question the EPA's calculated acute HAP emissions rate of 0.00467 tons per hour and the EPA's acute factor of 1.8.

*Response:* The EPA reviewed the commenter's submitted data and determined that the data support the EPA's acute HAP emissions rate of

0.00467 tons/hour and acute factor of 1.8. The ratios calculated by the commenter indicate an average ratio of 0.41 and a median of 0.392. Of the 51 months of data provided by the commenter, only two values exceed 1.0, and five values exceed 0.8. To investigate the two data points that exceed 1.0, we contacted the commenter, and the commenter referred us to S.B. Foot Tanning Co. The S.B. Foot Tanning Co. facility representative indicated that HAP emissions referred to in the commenter's data are primarily associated with a storage tank and that the two data points in question resulted from the inaccurate process of measuring the material's volume (see the memorandum titled *Clarification of Hazardous Air Pollutant (HAP) Usage Data for S.B. Foot Tanning Co., Submitted by the Minnesota Pollution Control Agency*, in the docket for this action). From this information, we conclude that the two data points are erroneous. Based on these results, the data, excluding the two erroneous data points, submitted by the commenter support our acute factor of 1.8 and we are not revising the factor.

*Comment:* Two commenters objected to the EPA's decision that the acute risk result for the Leather Finishing Operations source category (*i.e.*, HQ of 3) is acceptable. One commenter noted that the HQ of 3 is driven entirely by propyl cellosolve and expressed concern for the toxicity of this pollutant. The commenter expressed concern that short-term outdoor human exposures have a high potential of occurring and the highest HQ was predicted well within residential areas. One commenter asserted that the EPA provides no rational justification for ignoring the acute risk (HQ of 3) and the finding that there are chronic noncancer risks to the reproductive system. The commenter listed various human health effects associated with propyl cellosolve and cited references for these health effects.

*Response:* We disagree that the risk acceptability determination as it relates to the acute risk HQ of 3 for propyl cellosolve is not sufficiently justified. For this source category, we concluded that the risks are acceptable based on all of the available health information—cancer, chronic noncancer, and acute noncancer risk assessment results—and associated uncertainties. It is important to note that we have not established, under section 112(f)(2) of the CAA, a numerical range for risk acceptability for noncancer effects (chronic or acute), nor have we determined that there is a bright line above which acceptability is denied. However, we have established

that, as exposure increases above a reference level (as indicated by a HQ or TOSHI greater than 1), confidence that the public will not experience adverse health effects decreases and the likelihood that an effect will occur increases.

As discussed in the preamble to the proposed amendments (83 FR 11314, March 14, 2018), in conducting risk assessments for a group of compounds that are unspiciated (*e.g.*, glycol ethers), we conservatively use the most protective dose-response value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.*, ethylene glycol diethyl ether) that does not have a specified dose-response value, we apply the most protective dose-response value from the other compounds in the group to estimate risk. In the case of propyl cellosolve, for acute screening-level assessment, we used the acute REL for ethylene glycol monomethyl ether as a surrogate for propyl cellosolve since there is no specific acute inhalation health benchmark for this glycol ether. Given that ethylene glycol monomethyl ether is more toxic than other glycol ethers, the use of this surrogate is a health-protective choice in the EPA's risk assessment.

The acute screening analysis resulted in a maximum acute noncancer HQ of 3 based on the acute REL for ethylene glycol monomethyl ether. For acute screening-level assessments, to better characterize the potential health risks associated with estimated worst-case acute exposures to HAP, we typically examine a wider range of available acute health metrics than we do for our chronic risk assessments. This is in acknowledgement that there are generally more data gaps and uncertainties in acute reference values than there are in chronic reference values. By definition, the acute REL represents a health-protective level of exposure, with effects not anticipated below those levels, even for repeated exposures; however, the level of exposure that would cause health effects is not specifically known. As the exposure concentration increases above the acute REL, the potential for effects increases. Therefore, when an REL is exceeded and an AEGL-1 or ERPG-1 is available (*i.e.*, levels at which mild, reversible effects are anticipated in the general population for a single exposure), we typically use them as additional comparative measures. However, neither of these is available for propyl cellosolve or for ethylene glycol monomethyl ether. Taking into account the conservatism included in

the acute screening-level assessment, including use of an acute REL for a highly toxic glycol ether, we would not expect acute exposures at levels that would cause adverse effects.

Additional conservatism in the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA includes several factors. The degree of accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology, and the presence of humans at the location of the maximum concentration. We also assume that peak emissions from each emission point in the source category and worst-case meteorological conditions co-occur, thus, resulting in maximum ambient concentrations. These two events are unlikely to occur at the same time, making these assumptions conservative. We then include the additional assumption that a person is located at this point during the same time period. For this source category, these assumptions are likely to overestimate the true worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and worst-case meteorological conditions occur simultaneously. Thus, as discussed in the document titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the Risk and Technology Review December 2017 Proposed Rule*, in the docket for this action, by assuming the co-occurrence of independent factors for the acute screening assessment, the results are intentionally biased high and are, thus, health-protective.

For the Leather Finishing Operations source category, we considered all of the health risk information and factors discussed above, including other uncertainties associated with the risk assessment, to ensure that our decisions are health and environmentally protective (a discussion of these uncertainties is available in section III.C of the preamble to the proposed amendments (83 FR 11314, March 14, 2018) and in the document titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the Risk and Technology Review December 2017 Proposed Rule*, in the docket for this action), in proposing that the risks from the Leather Finishing Operations source category are acceptable. The risk analysis for the proposed rule amendments indicated that the cancer

risks to the individual most exposed are below 1-in-1 million from both actual and allowable emissions. These risks are considerably less than 100-in-1 million, which is the presumptive upper limit of acceptable risk. The risk analysis also showed no cancer incidence, as well as maximum chronic noncancer TOSHI value of 0.04, which is significantly below 1. In addition, the risk assessment indicated no significant potential for multipathway health effects.

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

We evaluated all of the comments on the EPA's risk review and determined that no changes to the review are needed. For the reasons explained in the proposed rule, we determined that the risks from the Leather Finishing Operations source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk review as proposed.

#### *B. Technology Review for the Leather Finishing Operations Source Category*

1. What did we propose pursuant to CAA section 112(d)(6) for the Leather Finishing Operations source category?

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for the emission sources in the source category. After conducting the CAA section 112(d)(6) technology review of the Leather Finishing Operations NESHAP, we proposed that revisions to the standards are not necessary because we identified no cost-effective developments in practices, processes, or control technologies. More information concerning our technology review is in the memorandum titled *CAA section 112(d)(6) Technology Review for the Leather Finishing Source Category*, in the docket for this action and in the preamble to the proposed rule (83 FR 11314–11337, March 14, 2018).

2. How did the technology review change for the Leather Finishing Operations source category?

Since proposal (83 FR 11314, March 14, 2018), the technology review has not changed.

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

No commenters provided input on the proposed technology review.

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

For the reasons explained in the proposed rule, we determined that no cost-effective developments in practices, processes, or control technologies were identified in our technology review to warrant revisions to the standards. We evaluated all of the comments on the EPA's technology review and determined that no changes to the review are needed. More information concerning our technology review is in the memorandum titled *CAA section 112(d)(6) Technology Review for the Leather Finishing Source Category*, in the docket for this action, and in the preamble to the proposed rule (83 FR 11314–11337, March 14, 2018). Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed.

#### *C. SSM for the Leather Finishing Operations Source Category*

1. What did we propose for the Leather Finishing Operations source category?

We proposed amendments to the Leather Finishing Operations NESHAP to remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (83 FR 11314–11337, March 14, 2018).

2. How did the SSM provisions change for the Leather Finishing Operations source category?

We are finalizing the SSM provisions as proposed with no changes (83 FR 11314, March 14, 2018).

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

We received two comments related to our proposed revisions to the SSM provisions. One commenter generally supported the proposed revisions to the SSM provisions. One commenter requested that we revise our approach to handling force majeure events. We evaluated the comments and determined that no changes to the proposed SSM provisions are warranted. A summary of these comments and our responses are located in the memorandum titled *Summary of Public Comments and the EPA's Responses for the Proposed Risk and*

*Technology Review and Amendments for the Leather Finishing Operations NESHAP*, in the docket for this action.

*Comment:* One commenter expressed concern that proposed 40 CFR 63.5420(c)(5) provides an exemption from reporting due to force majeure events. The commenter noted that the Court rejected similar “affirmative defense” to civil penalties for malfunctions (*NRDC v. EPA*, 749 F.3d 1055 (D.C. Cir. 2014)). The commenter also argued that adding such an exemption would be arbitrary and unlawful because it would undermine the reporting requirements by providing a justification to delay reporting, and, thus, undermine compliance, enforcement, and fulfillment of the emissions standards designed to protect public health and the environment at the core of the CAA’s and section 7412’s purpose (42 U.S.C. 740).

*Response:* The commenter is incorrect in referring to 40 CFR 63.5420(c)(5) as an “exemption.” This provision provides instructions for actions an affected source should take if it is unable to submit an electronic report (required under 40 CFR 63.5420(c)) “due to a force majeure event that is about to occur, occurs, or has occurred, or if there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due” under 40 CFR 63.5420(c). We note that there is no exception or exemption to reporting, only a method for requesting an extension of the reporting deadline. As specified in 40 CFR 63.5420(c)(5), “[t]he decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.” There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a category 5 hurricane event may delay electronic reporting much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to access electronically stored data or to submit reports electronically. The Administrator will be the most knowledgeable on the events leading to the request for extension and will assess whether an extension is appropriate and, if so, determine a reasonable length. The Administrator may even request that the report be sent in hardcopy until electronic reporting can

be resumed. While no new fixed duration deadline is set, the regulation does require that the report be submitted electronically as soon as possible after the CEDRI outage is resolved or after the force majeure event occurs.

We also note that the force majeure mimics long-standing language in 40 CFR 63.7(a)(4) and 60.8(a)(1) regarding the time granted for conducting a performance test and such language has not undermined compliance or enforcement.

Moreover, we disagree that the reporting extension will undermine enforcement because the Administrator has full discretion to accept or reject the claim of a CEDRI system outage or force majeure. As such, an extension is not automatic and is agreed to on an individual basis by the Administrator. If the Administrator determines that a facility has not acted in good faith to reasonably report in a timely manner, the Administrator can reject the claim and find that the failure to report timely is a deviation from the regulation. CEDRI system outages are infrequent, but the EPA knows when they occur and whether a facility’s claim is legitimate. Force majeure events (e.g., natural disasters impacting a facility) are also usually well-known events.

We also disagree that the ability to request a reporting extension would undermine compliance and fulfillment of the emissions standards. While reporting is an important mechanism for the EPA and air agencies to assess whether owners and operators are in compliance with emissions standards, reporting obligations have nothing to do with whether an owner or operator is required to be in compliance with an emissions standard, especially where the deadline for meeting the standard has already passed and the owner or operator has certified that they are in compliance with the standard.

Additionally, the ability to request a reporting extension does not apply to a broad category of circumstances; on the contrary, the scope for submitting a reporting extension request is very limited in that claims can only be made for events outside of the owner’s or operator’s control that occur in the 5 business days prior to the reporting deadline. The claim must then be approved by the Administrator, and, in approving such a claim, the Administrator agrees that something outside the control of the owner or operator prevented the owner or operator from meeting its reporting obligation. In no circumstance does this reporting extension allow for the owner

or operator to be out of compliance with the emissions standards.

The reporting deadline extension differs from the affirmative defense to civil penalties for malfunctions the D.C. Circuit vacated as beyond EPA’s authority under the CAA in *NRDC v. EPA*, 749 F.3d 1055 (D.C. Cir. 2014). Unlike the affirmative defense addressed in *NRDC*, the reporting provision does not address penalty liability for noncompliance with emission standards, but merely addresses, under a narrow set of circumstances outside the control of the facilities, the deadline for reporting.

Based on our evaluation of the comments, we have determined that no changes to our proposed revisions to the SSM provisions are warranted.

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

We evaluated all of the comments on the EPA’s proposed amendments to the SSM provisions. For the reasons explained in the proposed rule, we determined that these amendments remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the proposed amendments to the SSM provisions is in the preamble to the proposed rule (83 FR 11314–11337, March 14, 2018). Therefore, we are finalizing our approach for the SSM provisions as proposed.

#### *D. Requirements for Submission of Performance Tests for the Leather Finishing Operations Source Category*

1. What did we propose for the Leather Finishing Operations source category?

We proposed amendments to the Leather Finishing Operations NESHAP to require owners and operators of leather finishing operations facilities to submit electronic copies of certain required performance test reports. More information concerning these proposed revisions is in the preamble to the proposed rule (83 FR 11314–11337, March 14, 2018).

2. How did the requirements for submission of performance tests change for the Leather Finishing Operations source category?

Since proposal (83 FR 11314, March 14, 2018), the requirement for owners and operators of leather finishing operations facilities to submit electronic copies of certain required performance test reports has not changed.

3. What key comments did we receive on submission of performance tests, and what are our responses?

We received one comment providing input on the proposed requirement for owners and operators of leather finishing operations facilities to submit electronic copies of certain required performance test reports, and the commenter generally supported our amendments. We evaluated the comment and determined that no changes to our proposed electronic reporting requirements are warranted. A summary of this comment and our response are located in the memorandum titled *Summary of Public Comments and the EPA's Responses for the Proposed Risk and Technology Review and Amendments for the Leather Finishing Operations NESHAP*, in the docket for this action.

4. What is the rationale for our final approach on requirements for submission of performance tests?

We evaluated the comment on the EPA's proposed amendments requiring owners and operators of leather finishing operations facilities to submit electronic copies of certain required performance test reports. In light of this evaluation and for the reasons explained in the proposed rule, we determined that these amendments would increase the ease and efficiency of data submittal and data accessibility. Further, the EPA estimates that while no existing leather finishing operation subject to the Leather Finishing Operations NESHAP uses a control device to comply with the NESHAP, the rule allows for a source to use a control device to comply, and these electronic reporting provisions are necessary. As such, no existing leather finishing operation is required to conduct performance tests, submit test reports, or submit electronic copies of test reports. More information concerning the proposed requirement for owners and operators of leather finishing operations facilities to submit electronic copies of certain required performance test reports is in the preamble to the proposed rule (83 FR 11314–11337). Therefore, we are finalizing our approach on requirements for submission of performance tests as proposed.

#### *E. Technical Revisions and Corrections for the Leather Finishing Operations Source Category*

1. What did we propose for the Leather Finishing Operations source category?

We proposed amendments to the Leather Finishing Operations NESHAP to clarify the monitoring, recordkeeping,

and reporting requirements for control devices and the provisions for alternative schedules, and to correct the title of Table 2 to 40 CFR part 63, subpart TTTT. More information concerning these proposed revisions is in the preamble to the proposed rule (83 FR 11314–11337).

2. How did the technical revisions and corrections change for the Leather Finishing Operations source category?

Since proposal (83 FR 11314, March 14, 2018), the technical revisions and corrections have not changed.

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

No commenters provided input on the proposed technical revisions and corrections to clarify the monitoring, recordkeeping, and reporting requirements for control devices and the provisions for alternative schedules, and to correct the title of Table 2 to 40 CFR part 63, subpart TTTT.

4. What is the rationale for our final approach for the technical revisions and corrections?

For the reasons explained in the proposed rule, we determined that these amendments clarify the monitoring, recordkeeping, and reporting requirements for control devices and the provisions for alternative schedules. More information concerning the proposed technical revisions and correction is in the preamble to the proposed rule (83 FR 11314–11337). Therefore, we are finalizing our technical revisions and corrections as proposed.

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

#### *A. What are the affected facilities?*

There are currently four existing leather finishing operations facilities that were identified as subject to the Leather Finishing Operations NESHAP: S.B. Foot Tanning Company of Red Wing, Minnesota; Alliance Leather, Inc. of Peabody, Massachusetts; Pearl Leather Finishers, Inc. of Johnstown, New York; and Tasman Leather Group, LLC of Hartland, Maine.

#### *B. What are the air quality impacts?*

The EPA estimates that annual organic HAP emissions from the four leather finishing operations facilities subject to the rule are approximately 22.5 tpy. This final rule does not require compliance with more stringent emission limits or require additional controls; therefore, no air quality

impacts are expected as a result of the amendments.

#### *C. What are the cost impacts?*

The four leather finishing operations facilities subject to these final amendments will incur costs to review the final amendments. Nationwide annual costs associated with the final amendments are estimated to be a total of \$832 for the initial year only. We believe that the four leather finishing operations facilities that are known to be subject to final amendments can comply without incurring additional capital or operational costs. Therefore, the only costs associated with these final amendments are related to reviewing the rule. For further information on the final amendments, see section IV of the proposal preamble (83 FR 11314, March 14, 2018). For further information on the costs associated with the final amendments, see the supporting statement for the Leather Finishing Operations NESHAP (EPA Information Collection Request (ICR) Number 1985.09, Office of Management and Budget (OMB) Control Number 2060–0478), the memorandum titled *Costs for the Leather Finishing Operations Source Category Risk and Technology Review—Final Amendments*, and the memorandum titled *CAA section 112(d)(6) Technology Review for the Leather Finishing Source Category*, in the docket for this action.

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

The total national cost to comply with these final amendments is estimated to be \$832 in 2016 dollars, which is a one-time cost that will be incurred in the first year following promulgation of these final amendments. There are no additional emission control costs or additional emission reductions associated with this rule. The estimated cost of \$832 consists of equal costs incurred by each of the four affected facilities, with each facility estimated to incur one-time labor costs of approximately \$208 in order to become familiar with the rule. These costs are not expected to result in business closures, significant price increases, or substantial profit loss. No impacts on employment are expected given the minimal economic impact of the action on the affected firms. For further information on the economic impacts associated with these final amendments, see the memorandum titled *Final Economic Impact Analysis for the Reconsideration of the Risk and Technology Review: Leather Finishing Operations Source Category*, in the docket for this action.

#### E. What are the benefits?

Although the amendments in this final rule will not result in reductions in emissions of HAP, this final rule will improve implementation of the Leather Finishing Operations NESHAP by clarifying the rule requirements as discussed in sections IV.D.1 and IV.D.3 of the proposal preamble (83 FR 11314, March 14, 2018). Also, adding electronic reporting of test reports for any control devices used in the future to comply with these final amendments will provide the benefits discussed in section IV.D.2 of the proposal preamble (83 FR 11314, March 14, 2018), including assisting state and local agencies that elect to use ERT to track compliance of the rule.

#### F. What analysis of environmental justice did we conduct?

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 (58 FR 7629, February 16, 1994). The documentation for this decision is contained in section IV.A of this preamble and the technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Leather Finishing Operations*, in the docket for this action. As discussed in section IV.A of this preamble, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 50 km and within 5 km of the facilities. In this analysis, we evaluated the distribution of HAP-related cancer risks and noncancer hazards from the leather finishing operations across different social, demographic, and economic groups within the populations living near operations identified as having the highest risks.

The analysis indicates that the minority population living within 50 km (4,632,781 people, of which 25 percent are minority) and within 5 km (158,482 people, of which 13 percent are minority) of the four leather finishing operations facilities is less than the minority population found nationwide (38 percent). The proximity results indicate that the population percentage for the “Other and Multiracial” demographic group within 50 km of leather finishing operations emissions is slightly greater than the corresponding nationwide percentage for that same demographic. The percentage of people ages 65 and older residing within 5 km of leather finishing

operations (18 percent) is 4 percentage points higher than the corresponding nationwide percentage (14 percent). The other demographic groups included in the assessment within 5 km of leather finishing operations emissions were the same or lower than the corresponding nationwide percentages.

When examining the cancer risk levels of those exposed to emissions from the four leather finishing operations, we find that there are no people within a 50-km radius of modeled facilities exposed to a cancer risk greater than or equal to 1-in-1 million as a result of emissions from leather finishing operations. There are no known cancer risks posed by HAP emissions from the four facilities, because the HAP emitted have no known cancer risks. When examining the noncancer risk levels, we find that there are no people within a 50-km radius of modeled facilities exposed to a noncancer risk (in this analysis, reproductive HI) greater than 1 as a result of emissions from leather finishing operations.

The EPA has determined 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 because the health risks based on actual emissions are low (below 2-in-1 million), the population exposed to risks greater than 1-in-1 million is relatively small (750 persons), and the rule maintains or increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low-income, or indigenous populations. Further, the EPA believes that implementation of this rule will provide an ample margin of safety to protect public health of all demographic groups.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III and IV of the proposal preamble (83 FR 11314, March 14, 2018) and further documented in the report titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review*

*Proposed Rule*, in the docket for this action.

#### VI. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was, therefore, not submitted to OMB for review.

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

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

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

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 1985.09. You can find a copy of the ICR in the docket for this action (Docket ID No. EPA-HQ-OAR-2003-0194), and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions, which are essential in determining compliance and mandatory for all operators subject to national emissions standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

We are finalizing changes to the Leather Finishing Operations NESHAP paperwork requirements in the form of requiring review of the final rule in the initial year. We are finalizing no new reporting or recordkeeping requirements for the Leather Finishing Operations source category.

*Respondents/affected entities:* Respondents include leather finishing operations.

*Respondent's obligation to respond:* Mandatory (authorized by section 114 of the CAA).

*Estimated number of respondents:* Four leather finishing operations.

*Frequency of response:* Initially.

*Total estimated burden:* 9 hours (per year) for the responding facilities and 0 hours (per year) for the Agency.

*Total estimated cost:* \$832 (per year).

#### 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. The Agency has determined that of the four entities subject to this action, three are small businesses. The Agency has determined that each of the three small entities impacted by this action may experience an impact of less than 0.01 percent of sales. Details of this analysis are presented in the memorandum titled *Final Economic Impact Analysis for the Reconsideration of the Risk and Technology Review: Leather Finishing Operations Source Category*, in the docket for this action. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

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

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

#### F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive

Order 13175. No tribal facilities are known to be engaged in the leather finishing operations industry that would be affected by this action. 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. This action's health and risk assessments are contained in sections III and IV of the proposal preamble (83 FR 11314, March 14, 2018) and further documented in the report titled *Residual Risk Assessment for the Leather Finishing Operations Source Category in Support of the December 2017 Risk and Technology Review Proposed Rule*, in the docket for this action.

#### 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 action involves technical standards. Therefore, the EPA conducted searches for the Leather Finishing Operations Sector RTR through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute. We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 24 and 311 and identified six VCS as potentially acceptable alternatives for the purpose of this rule. Refer to section VIII.J of the proposal preamble (83 FR 11314, March 14, 2018) for a list of these methods. As proposed, we are not including these VCS in the final rule as alternative test methods because the methods are either impractical as an alternative to EPA Methods 24 and 311, do not address the parameter required to be measured, or have expired. Further, no alternative test methods were brought to our attention in public comments on the March 14, 2018, proposal. A brief summary of these results is provided in section VIII.J of the March 14, 2018,

proposal preamble. A thorough summary of the search conducted, and results are included in the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations*, in the docket for this action.

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

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

The documentation for this decision is contained in section V.F of this preamble and the technical report titled *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Leather Finishing Operations*, in the public docket for this action.

#### L. Congressional Review Act (CRA)

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

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

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

Dated: December 21, 2018.

**Andrew R. Wheeler,**

*Acting Administrator.*

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended 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 TTTT—National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations**

■ 2. Section 63.5320 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 63.5320 How does my affected major source comply with the HAP emission standards?**

(a) All affected sources must be in compliance with the requirements of this subpart at all times.

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

\* \* \* \* \*

■ 3. Section 63.5360 is amended by revising paragraphs (a)(2) and (b) to read as follows:

**§ 63.5360 How do I demonstrate continuous compliance with the emission standards?**

(a) \* \* \*

(2) If you use an emission control device, you must comply with § 63.982(a)(2) (subpart SS of this part) and collect the monitoring data as specified therein.

\* \* \* \* \*

(b) You must report each instance in which you did not meet the emission standards in § 63.5305. These deviations must be reported according to the requirements in § 63.5420(b).

\* \* \* \* \*

■ 4. Section 63.5375 is revised to read as follows:

**§ 63.5375 When must I conduct a performance test or initial compliance demonstration?**

You must conduct performance tests after the installation of any emission control device that reduces HAP emissions and will be used to comply with the HAP emission requirements of this subpart. You must complete your performance tests not later than 60 calendar days before the end of the 12-month period used in the initial compliance determination.

■ 5. Section 63.5380 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 63.5380 How do I conduct performance tests?**

(a) Each performance test must be conducted according to the requirements in § 63.7(e)(2) through (4) and the procedures of § 63.997(e)(1) and (2).

(b) Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

\* \* \* \* \*

■ 6. Section 63.5420 is amended by revising paragraphs (b) introductory text and (b)(3) and (4) and adding paragraphs (b)(5) and (6) and (c) to read as follows:

**§ 63.5420 What reports must I submit and when?**

\* \* \* \* \*

(b) You must submit a Deviation Notification Report for each compliance determination you make in which the compliance ratio exceeds 1.00, as determined under § 63.5330. Submit the deviation report by the fifteenth of the following month in which you determined the deviation from the compliance ratio. The Deviation Notification Report must include the items in paragraphs (b)(1) through (6) of this section:

\* \* \* \* \*

(3) The 12-month period covered by the report and each type of leather product process operation performed during the 12-month period.

(4) The compliance ratio comprising the deviation. You may reduce the frequency of submittal of the Deviation Notification Report if the Administrator of these NESHAP approves an alternative schedule.

(5) An estimate of the quantity of HAP (in pounds) emitted during the 12 months specified in paragraph (b)(3) of this section in excess of the allowable HAP loss. Calculate this estimate of excess emissions by subtracting the allowable HAP loss determined as

specified in § 63.5340 from the actual HAP loss determined as specified in § 63.5335.

(6) The cause of the events that resulted in the source failing to meet an applicable standard (including unknown cause, if applicable).

(c) Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (c)(1) through (3) of this section.

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

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13 unless the Administrator agrees to or specifies an alternate reporting method.

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

(4) If you are required to electronically submit a report through the CEDRI in the EPA's CDX, and due

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

(5) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the

time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 7. Section 63.5430 is amended by revising the introductory text and paragraph (g) and adding paragraphs (h) and (i) to read as follows:

**§ 63.5430 What records must I keep?**

You must satisfy the recordkeeping requirements in paragraphs (a) through (i) of this section by the compliance date specified in § 63.5295.

\* \* \* \* \*

(g) If you use an emission control device, you must keep records of monitoring data as specified at § 63.982(a)(2) (subpart SS of this part).

(h) In the event that the compliance ratio exceeded 1.00, as determined under § 63.5330, keep a record of the information specified in paragraphs (h)(1) through (5) of this section for each exceedance.

(1) The 12-month period in which the exceedance occurred, as reported in § 63.5420(b).

(2) Each type of leather product process operation performed during the 12-month period in which the exceedance occurred, as reported in § 63.5420(b).

(3) Estimate of the quantity of HAP (in pounds) emitted during the 12 months specified in § 63.5420(b)(3) in excess of the allowable HAP loss, as reported in § 63.5420(b).

(4) Cause of the events that resulted in the source failing to meet an applicable standard (including unknown cause, if applicable), as reported in § 63.5420(b).

(5) Actions taken to minimize emissions in accordance with § 63.5320(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

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

■ 8. Section 63.5460 is amended by revising the definition for "Deviation" to read as follows:

**§ 63.5460 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 fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limits or work practice standards.

\* \* \* \* \*

■ 9. Table 2 to subpart TTTT of part 63 is revised to read as follows:

As required in § 63.5450, you must meet the appropriate NESHAP General Provision requirements in the following table:

TABLE 2 TO SUBPART TTTT OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTT

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications..	Yes.	
§ 63.2	Definitions	Definitions for Part 63 standards.	Yes	Except as specifically provided in this subpart.
§ 63.3	Units and abbreviations	Units and abbreviations for Part 63 standards.	Yes.	

TABLE 2 TO SUBPART TTTT OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTT—Continued

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.4	Prohibited activities and circumvention.	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§ 63.5	Construction/reconstruction	Applicability; applications; approvals.	Yes	Except for paragraphs of § 63.5 as listed below.
§ 63.5(c)	[Reserved]			
§ 63.5(d)(1)(ii)(H)	Application for approval	Type and quantity of HAP, operating parameters..	No	All sources emit HAP. Subpart TTTT does not require control from specific emission points.
§ 63.5(d)(1)(i)	[Reserved].			
§ 63.5(d)(1)(iii), (d)(2), (d)(3)(ii)	Application for approval	Application for approval	No	The requirements of the application for approval for new and reconstructed sources are described in § 63.5320(b). General provision requirements for identification of HAP emission points or estimates of actual emissions are not required. Descriptions of control and methods, and the estimated and actual control efficiency of such do not apply. Requirements for describing control equipment and the estimated and actual control efficiency of such equipment apply only to control equipment to which the subpart TTTT requirements for quantifying solvent destroyed by an add-on control device would be applicable.
§ 63.6	Applicability of general provisions.	Applicability of general provisions.	Yes	Except for paragraphs of § 63.6 as listed below.
§ 63.6(b)(1)–(3)	Compliance dates, new and reconstructed sources.		No	Section § 63.5283 specifies the compliance dates for new and reconstructed sources.
§ 63.6(b)(6)	[Reserved].			
§ 63.6(c)(3)–(4)	[Reserved].			
§ 63.6(d)	[Reserved].			
§ 63.6(e)(1)	Operation and maintenance requirements.		No	See § 63.5320(b) for general duty requirement.
§ 63.6(e)(2)	[Reserved].			
§ 63.6(e)(3)	Operation and maintenance requirements.	Startup, shutdown, and malfunction plan requirements.	No	Subpart TTTT does not have any startup, shutdown, and malfunction plan requirements.
§ 63.6(f)–(g)	Compliance with nonopacity emission standards except during SSM.	Comply with emission standards at all times except during SSM.	No	Subpart TTTT does not have nonopacity requirements.
§ 63.6(h)	Opacity/visible emission (VE) standards.		No	Subpart TTTT has no opacity or visual emission standards.
§ 63.6(i)	Compliance extension	Procedures and criteria for responsible agency to grant compliance extension.	Yes.	
§ 63.6(j)	Presidential compliance exemption.	President may exempt source category from requirement to comply with subpart.	Yes.	
§ 63.7	Performance testing requirements.	Schedule, conditions, notifications and procedures.	Yes	Except for paragraphs of § 63.7 as listed below. Subpart TTTT requires performance testing only if the source applies additional control that destroys solvent. § 63.5311 requires sources to follow the performance testing guidelines of the General Provisions if a control is added.
§ 63.7(a)(2) (i) and (iii)	Performance testing requirements.	Applicability and performance dates.	No	§ 63.5310(a) of subpart TTTT specifies the requirements of performance testing dates for new and existing sources.
§ 63.7(e)(1)	Conduct of performance tests	Defines representative conditions; provides an exemption from the standards for periods of startup, shutdown, and malfunction; requires that, upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.	No	See § 63.5380.
§ 63.8	Monitoring requirements	Applicability, conduct of monitoring, operation and maintenance, quality control, performance evaluations, use of alternative monitoring method, reduction of monitoring data.	No	See § 63.5360(a)(2) for monitoring requirements.
§ 63.9	Notification requirements	Applicability and State delegation.	Yes	Except for paragraphs of § 63.9 as listed below.
§ 63.9(e)	Notification of performance test	Notify responsible agency 60 days ahead.	Yes	Applies only if performance testing is performed.
§ 63.9(f)	Notification of VE/opacity observations.	Notify responsible agency 30 days ahead.	No	Subpart TTTT has no opacity or visual emission standards.

TABLE 2 TO SUBPART TTTT OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTT—Continued

General provisions citation	Subject of citation	Brief description of requirement	Applies to subpart	Explanation
§ 63.9(g)	Additional notifications when using a continuous monitoring system (CMS).	Notification of performance evaluation; notification using COMS data; notification that exceeded criterion for relative accuracy.	No	See § 63.5360(a)(2) for CMS requirements.
§ 63.9(h)	Notification of compliance status.	Contents	No	§ 63.5320(d) specifies requirements for the notification of compliance status.
§ 63.10	Recordkeeping/reporting	Schedule for reporting, record storage.	Yes	Except for paragraphs of § 63.10 as listed below.
§ 63.10(b)(2)	Recordkeeping	CMS recordkeeping; CMS records of startup, shutdown, and malfunction events.	No	See § 63.5360 for CMS recordkeeping requirements, except see § 63.5430(h) for CMS recordkeeping requirements if there is a deviation from the standard.
§ 63.10(c)	Recordkeeping	Additional CMS recordkeeping	No	See § 63.5360(a)(2) for CMS recordkeeping requirements.
§ 63.10(d)(2)	Reporting	Reporting performance test results.	Yes	Applies only if performance testing is performed.
§ 63.10(d)(3)	Reporting	Reporting opacity or VE observations.	No	Subpart TTTT has no opacity or visible emission standards.
§ 63.10(d)(4)	Reporting	Progress reports	Yes	Applies if a condition of compliance extension.
§ 63.10(d)(5)	Reporting	Startup, shutdown, and malfunction reporting.	No	See § 63.5420(b) for reporting requirements if there is a deviation from the standard.
§ 63.10(e)	Reporting	Additional CMS reports	No	See § 63.5360(a)(2) for monitoring requirements.
§ 63.11	Control device requirements	Requirements for flares	Yes	Applies only if your source uses a flare to control solvent emissions. Subpart TTTT does not require flares.
§ 63.12	State authority and delegations	State authority to enforce standards.	Yes.	
§ 63.13	State/regional addresses	Addresses where reports, notifications, and requests are sent.	Yes.	
§ 63.14	Incorporation by reference	Test methods incorporated by reference.	Yes.	
§ 63.15	Availability of information and confidentiality.	Public and confidential information.	Yes.	

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 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 122, 124 and 125**

[EPA-HQ-OW-2016-0145; FRL9988-87-OW]

RIN 2040-AF25

**National Pollutant Discharge Elimination System (NPDES): Applications and Program Updates**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing certain revisions to the National Pollutant Discharge Elimination System permitting regulations proposed on May 18, 2016. The final regulatory changes are minor and will improve and clarify the regulations in the following major categories: Regulatory definitions (“new discharger” and two definitions related to the discharge of pesticides from pesticides application); permit applications; and public notice. This

final rule also updates the EPA contact information and web addresses for electronic databases, updates outdated references to best management practices guidance documents, and deletes a provision relating to best practicable waste treatment technology for publicly owned treatment works that is no longer applicable. The final revisions modernize the NPDES regulations, promote submission of complete permit applications, and clarify regulatory requirements to allow more timely development of NPDES permits that protect human health and the environment.

**DATES:** This final rule is effective on June 12, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OW-2016-0145. All documents in the docket are listed on the <https://www.regulations.gov> website. 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, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are

available electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Frank Sylvester, Water Permits Division, Office of Wastewater Management, Mail Code 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-1279; email address: [sylvester.francis@epa.gov](mailto:sylvester.francis@epa.gov); or Janita Aguirre, Water Permits Division, Office of Wastewater Management, Mail Code 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566-1149; email address: [aguirre.janita@epa.gov](mailto:aguirre.janita@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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