

EPA APPROVED IDAHO SOURCE-SPECIFIC REQUIREMENTS <sup>1</sup>—Continued

Name of source	Permit No.	State effective date	EPA approval date	Explanation
P4 Production, L.L.C., Soda Springs, Idaho.	T2-2009.0109 .....	11/17/2009 (date issued)	6/22/2011, 76 FR 36329.	The following conditions: 1.2 (including Table 1.1), 2.3, 2.4, 2.5, 2.6, 2.7, and 2.8. (Regional Haze SIP Revision).

<sup>1</sup> EPA does not have the authority to remove these source-specific requirements in the absence of a demonstration that their removal would not interfere with attainment or maintenance of the NAAQS, violate any prevention of significant deterioration increment or result in visibility impairment. Idaho Department of Environmental Quality may request removal by submitting such a demonstration to EPA as a SIP revision.

<sup>2</sup> Only a small portion of this facility is located on State lands. The vast majority of the facility is located in Indian Country. It is EPA's position that unless EPA has explicitly approved a program as applying in Indian country, State or local regulations or permits are not effective within the boundaries of that Indian country land for purposes of complying with the CAA. 68 FR 2217, 2220 (January 16, 2003).

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA-HQ-OAR-2019-0392; FRL-10008-48-OAR]

RIN 2060-AT07

**National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing 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 Rubber Tire Manufacturing source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action to add electronic reporting of performance test results and reports, compliance reports, and Notification of Compliance Status (NOCS) reports and to remove the provision that exempts emissions from compliance with the standards during periods of startup, shutdown, and malfunction (SSM). These amendments are made under the authority of the Clean Air Act (CAA) and will improve effectiveness of the rule. The amendments are environmentally neutral.

**DATES:** This final rule is effective on July 24, 2020.

**ADDRESSES:** The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA-HQ-OAR-2019-0392. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is

restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov/>. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. There is a temporary suspension of mail delivery to the EPA, and no hand deliveries are currently accepted. For further information and updates on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, contact Mr. Korbin Smith, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2416; fax number: (919) 541-4991; and email address: [smith.korbin@epa.gov](mailto:smith.korbin@epa.gov). For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, 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) 541-0881; and email address: [hirtz.james@epa.gov](mailto:hirtz.james@epa.gov). For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue 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
- CFR Code of Federal Regulations
- EPA Environmental Protection Agency
- HAP hazardous air pollutant(s)
- ICR information collection request
- MACT maximum achievable control technology
- NESHAP national emission standards for hazardous air pollutants
- NOCS Notification of Compliance Status
- NTTAA National Technology Transfer and Advancement Act
- PRA Paper Reduction Act
- RFA Regulatory Flexibility Act
- RIN Regulatory Information Number
- RTO regenerative thermal oxidizer
- RTR Risk and Technology Review
- SSM startup, shutdown, and malfunction
- tpy tons per year
- UMRA Unfunded Mandates Reform Act
- VOC volatile organic compound(s)

*Background information.* On October 30, 2019 the EPA proposed revisions to the Rubber Tire Manufacturing NESHAP based on the RTR. 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 *Summary of Public Comments and Responses for Rubber Tire Manufacturing Residual Risk and Technology Review*, Docket ID No. EPA-HQ-OAR-2019-0392. 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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  - G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
  - I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

- J. National Technology Transfer and Advancement Act (NTTAA)
- K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- L. Congressional Review Act (CRA)

**I. General Information**

*A. 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
40 CFR part 63, subpart XXXX, Rubber Tire Manufacturing .....	326211, 326212, 314992

<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/rubber-tire-manufacturing-national-emission-standards-hazardous-air>. 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://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous>. This information includes an overview of the RTR program and

links to project websites for the RTR source categories.

*C. Judicial Review and Administrative Reconsideration*

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by September 22, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

**II. Background**

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

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (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 84 FR 58268.

#### *B. What is the Rubber Tire Manufacturing source category and how does the NESHAP regulate HAP emissions from the source category?*

The EPA promulgated the Rubber Tire Manufacturing NESHAP on July 9, 2002 (67 FR 45588). The standards are codified at 40 CFR part 63, subpart XXXX. The rubber tire manufacturing industry consists of facilities that produce components of rubber tires, which include, but are not limited to, rubber compounds, sidewalls, tread, tire beads, tire cord, and liners. The source category covered by this MACT standard currently includes 21 facilities.

The Rubber Tire Manufacturing source category is subcategorized into four subcategories, which include rubber processing, tire production, tire cord production, and puncture sealant application.

Emissions limits in the 2002 NESHAP for the Rubber Tire Manufacturing source category were set for each subcategory separately:

##### 1. Rubber Processing

There are no emission limits for rubber processing affected sources.

##### 2. Tire Production

There are two options for compliance under this subcategory. The first is a HAP constituent option that requires that emissions of each HAP in Table 16 to 40 CFR part 63, subpart XXXX, not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total cements and solvents used at the tire production affected source, and that emissions of each HAP not in Table 16 to 40 CFR part 63, subpart XXXX, not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total cements and solvents

<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.”).

used at the tire production affected source.

The second emission limit option is a production-based option. For this option, emissions of HAP must not exceed 0.024 grams per megagram (0.00005 pounds per ton) of rubber used at the tire production affected source.

##### 3. Tire Cord Production

There are three options for compliance under this subcategory, depending, in part, on whether the source is an existing or new source. The first option is a production-based option for existing tire cord production affected sources. As part of this option, emissions must not exceed 280 grams HAP per megagram (0.56 pounds per ton) of fabric processed at the tire cord production affected source.

The second option is a production-based option for new or reconstructed tire cord production affected sources. As part of this option, emissions must not exceed 220 grams HAP per megagram (0.43 pounds per ton) of fabric processed at the tire cord production affected source.

The third option is a HAP constituent option available to both existing and new or reconstructed tire cord production affected sources. As part of this option, emissions of each HAP in Table 16 to 40 CFR part 63, subpart XXXX, must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total coatings used at the tire cord production affected source, and emissions of each HAP not in Table 16 to 40 CFR part 63, subpart XXXX, must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total coatings used at the tire cord production affected source.

##### 4. Puncture Sealant Application

There are three options for compliance under this subcategory, again depending, in part, on whether the source is an existing or new source. The first option is a percent reduction option for existing puncture sealant application spray booths. As part of this option, facilities are required to reduce spray booth HAP (measured as volatile organic compounds (VOC)) emissions by at least 86 percent by weight.

The second option is a percent reduction option for new or reconstructed puncture sealant application spray booths. As part of this option, facilities are required to reduce spray booth HAP (measured as VOC) emissions by at least 95 percent by weight.

The third option is a HAP constituent option for both existing and new or reconstructed puncture sealant

application spray booths. As part of this option, emissions of each HAP in Table 16 to 40 CFR part 63, subpart XXXX, must not exceed 1,000 grams HAP per megagram (2 pounds per ton) of total puncture sealants used at the puncture sealant affected source, and emissions of each HAP not in Table 16 to 40 CFR part 63, subpart XXXX, must not exceed 10,000 grams HAP per megagram (20 pounds per ton) of total puncture sealants used at the puncture sealant affected source.

### 5. Alternatives for Meeting Emission Limits

The three subcategories subject to emission limits (tire production, tire cord production, and puncture sealant application) offer compliance alternatives to meet the above-mentioned emission limits. For more information, a detailed breakdown of the subcategory alternatives can be found in 40 CFR 63.5985, 40 CFR 63.5987, and 40 CFR 63.5989.

#### *C. What changes did we propose for the Rubber Tire Manufacturing source category in our October 30, 2019, proposal?*

On October 30, 2019, the EPA published a proposed rule in the **Federal Register** for the Rubber Tire Manufacturing NESHAP, 40 CFR part 63, subpart XXXX, that took into consideration the RTR analyses. In the proposed rule, we determined that it was not necessary to revise the standard pursuant to the technology or risk reviews. However, we did propose revisions to the SSM provisions of the MACT rule in order to ensure that the regulations are consistent with the Court decision in *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008). This decision vacated two provisions in the EPA's "General Provisions" implementing CAA section 112 at 40 CFR part 63, subpart A, that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM. In addition, we proposed to require electronic submittal of the NOCS report, performance test reports, and compliance reports for rubber tire manufacturing facilities.

#### **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 Rubber Tire Manufacturing source category that it is not necessary to revise the standard pursuant to the technology and risk reviews. This actions also finalizes the removal of the SSM

exemption and the addition of electronic reporting.

#### *A. What are the final rule amendments based on the risk review for the Rubber Tire Manufacturing source category?*

The EPA proposed no changes to the 40 CFR part 63, subpart XXXX, NESHAP based on the risk review conducted pursuant to CAA section 112(f). We are finalizing our proposed determination that risks from the source category following implementation of MACT standards are acceptable, considering all the health information and factors evaluated, and risk estimation uncertainty. We are also finalizing our proposed determination that the existing NESHAP provides an ample margin of safety to protect public health and to prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that affected our determinations. Therefore, we are not making any revisions to the existing standards, pursuant to CAA section 112(f), and we are readopting the existing standards.

#### *B. What are the final rule amendments based on the technology review for the Rubber Tire Manufacturing source category?*

We determined that there are no developments in practices, processes, and control technologies. Therefore, we are not revising the MACT standards under CAA section 112(d)(6).

#### *C. What are the final rule amendments addressing emissions during periods of SSM?*

We are finalizing the proposed amendments to the Rubber Tire Manufacturing source category to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008), the 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.D.1 of the proposal preamble (84 FR 58268, October 30, 2019), we proposed to remove the SSM exemptions for the Rubber Tire Manufacturing source category and require that the standards apply at all times (*see* 40 CFR

63.5990(a)), consistent with the Court decision in *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008).

Further, the EPA is not establishing standards for malfunctions. As discussed in the October 30, 2019, 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 action, it is unlikely that a malfunction would result in a violation of the standards, and no comments were submitted that would suggest otherwise. Refer to section IV.D.1.a of the 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 revisions to the General Provisions table to 40 CFR part 63, subpart XXXX, to eliminate requirements that include rule language providing an exemption for periods of SSM. We are also making an additional conforming change to Table 17 of the corresponding line for 40 CFR 63.7(e)(1), and have removed the proposed 180 day compliance period for removal of the vacated general provisions SSM exemption in 40 CFR 63.6(f)(1). 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 compliance report and related records as they relate to malfunctions, as further described below. As discussed in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.5990(a), that the standards apply at all times. Refer to sections III.C.1 through 5 of the proposal preamble for a detailed discussion of these amendments.

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

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing a requirement that owners

and operators of facilities in the Rubber Tire Manufacturing source category submit electronic copies of certain required performance test reports, compliance reports, and NOCS reports through the EPA’s Central Data Exchange (CDX) website. We also are finalizing, as proposed, provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility, (i.e., for a possible outage in the CDX or Compliance and Emissions Data Reporting Interface (CEDRI) or for a *force majeure* event in the time just prior to a report’s due date), as well as the process to assert such a claim.

Based on comments received during the comment period, the EPA is modifying the compliance report provision. The regulations currently require sources to report the emission limit option and the compliance alternative that they have chosen to meet for each affected source. In the final rule, we are allowing facilities to report the emission limit option and compliance alternative at the facility level rather than for each affected source, if the same emission limit option and compliance alternative is used across all affected sources at the facility that are subject to the NESHAP. This change is reflected at 40 CFR 63.6010(c)(7).

We are finalizing a change from proposal to 40 CFR 63.6010(d) and 40 CFR 63.6010(d)(2) to correct typographical errors, and further clarify the requirements for reporting deviations in the compliance report.

Lastly, while the electronic reporting template is not part of the final rule, we note that we are adding a column to the

template titled “actions taken to minimize emissions in accordance with § 63.5990,” to correspond with 40 CFR 63.6010(d)(3). While stated correctly in the preamble to the proposed rule, it was accidentally omitted from the electronic reporting template. We are also modifying the template, consistent with the change to 40 CFR 63.6010(c)(7) to specify that facilities may report the emission limit option and compliance alternative at the facility level rather than for each affected source, if the same emission limit option and compliance alternative is used across all affected sources at the facility that are subject to the NESHAP.

*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 July 24, 2020.

The compliance date for existing affected sources in the Rubber Tire Manufacturing source category is January 20, 2021, with the exception of the electronic format for submitting the compliance reports, and the vacated SSM exemption contained in 40 CFR 63.6(f)(1). We are revising Table 17 to clarify that for all affected sources, the vacated SSM exemption does not apply following the Court vacatur in *Sierra Club v. EPA*, 551 F. 3d 1019 (D.C. Cir. 2008).

For the electronic format for submitting compliance reports, both existing and new affected sources will have 1 year after the electronic reporting templates are available on CEDRI, or 1 year after July 24, 2020, whichever is later. The EPA selected these compliance dates based on experience with similar industries and the EPA’s

detailed justification for the selected compliance dates is included in the preamble to the proposed rule (84 FR 58268).

**IV. What is the rationale for our final decisions and amendments for the Rubber Tire Manufacturing 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 comment summary and response document available in the docket.

*A. Residual Risk Review for the Rubber Tire Manufacturing Source Category*

1. What did we propose pursuant to CAA section 112(f) for the Rubber Tire Manufacturing source category?

Pursuant to CAA section 112(f), the EPA conducted a risk review and presented the results for the review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the October 30, 2019, proposed rule for the Rubber Tire Manufacturing source category (84 FR 58268). The results of the risk assessment are presented briefly in Table 2 of this preamble and in the risk report titled *Residual Risk Assessment for the Rubber Tire Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule*, and sections III and IV of the proposal preamble (84 FR 58268, October 30, 2019) available in the docket for this action.

TABLE 2—INHALATION RISK ASSESSMENT SUMMARY FOR RUBBER TIRE MANUFACTURING<sup>1</sup> SOURCE CATEGORY

Number of facilities <sup>2</sup>	Maximum individual cancer risk (in 1 million) <sup>3</sup> based on . . .		Population at increased risk of cancer ≥ 1-in-1 million based on . . .		Annual cancer incidence (cases per year) based on . . .		Maximum chronic noncancer TOSHI <sup>4</sup> based on . . .		Maximum screening acute noncancer HQ <sup>5</sup> based on actual emissions level
	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	
21 .....	4	4	4500	4500	0.002	0.002	0.2	0.2	0.4 (REL)

<sup>1</sup> Based on actual and allowable emissions.  
<sup>2</sup> Number of facilities evaluated in the risk assessment. Includes 21 operating facilities subject to 40 CFR part 63, subpart XXXX.  
<sup>3</sup> Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.  
<sup>4</sup> Maximum target organ-specific hazard index (TOSHI). The target organ with the highest TOSHI for the Rubber Tire Manufacturing source category is the spleen.  
<sup>5</sup> The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the recommended exposure limit (REL). When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value. The HQ of 0.4 is based upon an acute REL based upon worst-case screening values.

As proposed at 84 FR 58268–58301, for the Rubber Tire Manufacturing source category, the risk analysis indicates that the cancer risk to the individual most exposed is 4-in-1

million from both actual and allowable emissions. The risk analysis also estimates a cancer incidence of 0.002 excess cancer cases per year, or 1 case every 500 years, as well as a maximum

chronic noncancer target organ-specific hazard index value of 0.2 for both actual and allowable emissions. The results of the acute screening analysis also estimate a maximum acute noncancer

HQ screening value of less than 1 based on the acute reference exposure level. Mixing, extruding, and buffing emissions result in 88 percent of the cancer incidence for this source category with metal emissions from mixing, extruding, and buffing contributing 40 percent of the cancer incidence. Based on the low risks, we proposed risks are acceptable.

We then examined whether additional controls were needed to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect. In the original NESHAP rulemaking, we identified regenerative thermal oxidizers (RTOs) as an option for further reducing organic HAP emissions, but these controls were determined to not be cost effective. The associated costs for installing and operating an RTO have not changed significantly since the analysis in the original NESHAP.

Based upon the previous analysis, we determined that the costs from the application of additional controls are not justified considering the low risks and the small reduction in risk resulting from the application of additional controls. Therefore, we proposed that the current NESHAP provides an ample margin of safety to protect public health.

Lastly, as proposed regarding risk to the environment, we conducted a Tier 1 and Tier 2 environmental risk screening analysis (see 84 FR 58284–58285).

Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from this source category and, therefore, we are finalizing our determination that it is not necessary to set more stringent standards to prevent an adverse environmental effect.

2. How did the risk review change for the Rubber Tire Manufacturing source category?

We did not receive any information that changed our risk or cost analyses and we are finalizing our proposed conclusion on the risk review.

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

We received several comments regarding the proposed risk review and our determination that no revisions were warranted under CAA section 112(f)(2). Comments both supported and suggested changes to our risk review. After review of these comments, we determined that no changes were necessary. The comments and our specific responses can be found in the document, *Summary of Public*

*Comments and Responses for Rubber Tire Manufacturing Residual Risk and Technology Review*, which is available in the docket for this action.

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

We evaluated all 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 Rubber Tire Manufacturing source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk determination as proposed.

#### *B. Technology Review for the Rubber Tire Manufacturing Source Category*

1. What did we propose pursuant to CAA section 112(d)(6) for the Rubber Tire Manufacturing source category?

Our review of the developments in technology for the Rubber Tire Manufacturing source category did not reveal any developments in practices, processes, and controls. Because our review did not identify any practices, processes, or controls to reduce emissions in the category since promulgation of the current NESHAP, we proposed that no revisions to the NESHAP are necessary pursuant to CAA section 112(d)(6).

2. How did the technology review change for the Rubber Tire Manufacturing source category?

The technology review did not change from proposal. Therefore, we are finalizing our determination that no revisions to the NESHAP are necessary pursuant to CAA section 112(d)(6).

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

We received two comments regarding the proposed technology review and our determination that no revisions were warranted under CAA section 112(d)(6). The first comment supported our determination regarding the technology review. The second commenter stated that EPA legally must set emission limits for rubber processing which currently is unregulated. In support of their comment, the commenter states, "As the Clean Air Act and D.C. Circuit Court precedent make clear, EPA must set limits on every emitted HAP. See, e.g., *Nat'l Lime Ass'n v. EPA*, 233 F.3d

625, 633 (D.C. Cir. 2000); 42 U.S.C.

7412(d)(1)–(3). EPA's 42 U.S.C.

7412(d)(6) authority does not allow EPA to ignore any pollutants while reviewing the emission standards for this source category, including subcategories. Rather, EPA must review and revise "as necessary" the emission standards for Rubber Processing."

CAA section 112(d)(6) requires the EPA to review and revise, as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section. The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to, at least every 8 years, review the emission standards already promulgated in the NESHAP and to revise those standards as necessary taking into account developments in practices, processes, and control technologies. Under this reading, section 112(d)(6) of the CCA does not impose upon the Agency any obligation to promulgate new emission standards or expand the scope of an existing regulation.<sup>2</sup>

When the EPA establishes initial standards for previously unregulated HAP or emissions points, we do so—consistent with CAA sections 112(d)(2) and (3) or, if the prerequisites are met, CAA section 112(d)(4). Establishing emissions standards under these provisions of the CAA involves a different analytical approach from reviewing emissions standards under CAA section 112(d)(6).

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

Our technology review looked for add-on control technology that was not identified during the original NESHAP development and for improvements to existing add-on controls. We also looked for new work practices, operational procedures, process changes, pollution prevention alternatives, coating formulations, or application techniques that have the potential to reduce emissions. Based on our review, we did not identify any developments. Since proposal, no information has been presented to cause us to change the proposed determination. Consequently, we are finalizing our CAA section 112(d)(6) determination as proposed.

<sup>2</sup>On April 21, 2020, as the Agency was preparing the final rule for signature, a decision was issued in *LEAN v. EPA*, 955 F.3d 1088 (D.C. Cir. 2020) in which the Court held that the EPA has an obligation to set standards for unregulated pollutants as part of technology reviews under CAA section 112(d)(6). At the time of signature, the mandate in that case had not been issued and the EPA is continuing to evaluate the decision.

### C. SSM Provisions

1. What did we propose for the Rubber Tire Manufacturing source category?

We proposed amendments to the Rubber Tire Manufacturing source category 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 (84 FR 58285–58287, October 30, 2019).

2. How did the SSM provisions change for the Rubber Tire Manufacturing source category?

We are finalizing the SSM provisions as proposed, while making an additional conforming change to Table 17 of the corresponding line for 40 CFR 63.7(e)(1) (see 84 FR 58268, October 30, 2019). We are not including a 180-day compliance period for removal of the general provisions SSM exemption in 40 CFR 63.6(f)(1), which were vacated by the Court in *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008).

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

We received one comment related to our proposed revisions to the SSM provisions. The commenter generally supported the proposed revisions to the SSM provisions and thus it does not support changes to the proposed SSM provisions. A summary of the comment and our response are located in the memorandum titled *Summary of Public Comments and Responses for Rubber Tire Manufacturing Residual Risk and Technology Review*, which is available in the docket for this action.

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

For the reasons explained in the proposed rule, we are finalizing the amendments 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 amendments to the SSM provisions is in the preamble to the proposed rule (84 FR 58285–58287). We are finalizing, as proposed, the amendments to remove or revise provisions related to SSM.

Regarding compliance with the removal of the SSM exemption, our experience with similar industries shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; to evaluate their operations to ensure that they can

meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; and to update their operation, maintenance, and monitoring plan to reflect the revised requirements. The EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the time frame needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable and, thus, is finalizing that all affected sources that commenced construction or reconstruction on or before October 30, 2019, be in compliance with all of this regulation's revised requirements within 180 days of the regulation's effective date. As stated above, we are not including a 180-day compliance period for removal of the general provisions SSM exemption in 40 CFR 63.6(f)(1), which were vacated by the court in *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008).

### D. Electronic Reporting

1. What did we propose for the Rubber Tire Manufacturing source category?

In the October 30, 2019, proposal, we proposed that owners and operators of facilities subject to the Rubber Tire Manufacturing NESHAP submit electronic copies of performance test results, compliance reports, and NOCS reports through the EPA's CDX, using CEDRI. More information concerning the proposed amendments to electronic reporting provisions is in the preamble to the proposed rule (84 FR 58288–58289). A description of the electronic submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAP) Rules*, August 8, 2018, in the docket for this action.

We proposed an extension of the reporting deadline may be warranted due to outages of the EPA's CDX or CEDRI that precludes an owner or operator from accessing the system and submitting required reports (see 84 FR 58288). Additionally, we proposed that an extension may be warranted due to a *force majeure* event, such as an act of nature, act of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

2. How did the electronic reporting provisions change for the Rubber Tire Manufacturing source category?

Based on comments received during the comment period, the EPA is modifying the electronic reporting provisions in one respect. The reporting provisions state that each facility that operates a tire production affected source record the emission limit option in 40 CFR 63.5984 and the compliance alternative in 40 CFR 63.5985 that it chooses to meet to comply with the standards. In the final rule, we are allowing facilities to report the emission limit option at the facility level instead of for each affected source, if the facility uses the above-mentioned emission limit option facility wide.

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

We received two comments regarding our proposed changes to the electronic reporting provisions. The first commenter generally supported the proposed electronic reporting provisions but stated that there should not be exemptions for force majeure events. The second commenter asks EPA to align reporting deadlines with state required reporting deadlines. A summary of the comments and our responses are located in the memorandum titled *Summary of Public Comments and Responses for Rubber Tire Manufacturing Residual Risk and Technology Review*, which is available in the docket for this action.

Additionally, the second commenter requested that the EPA simplify the e-reporting template. This commenter stated that the template currently requires existing facilities to identify each piece of equipment subject to the Rubber Tire Manufacturing NESHAP and the emission limit option to which it is subject. The commenter requested, to reduce reporting burden, that the EPA allow facilities to designate the manner in which they comply with the MACT for the entire facility, instead of for each piece of equipment. We first note that the concern raised by the commenter is a concern with the regulatory text; the template merely reflects the requirements in the regulation. As stated in the section above, the EPA agrees with the commenter that reporting should be allowed at the facility level, if the facility uses the emission limit option facility wide and EPA is modifying the reporting requirements in the regulation (see 40 CFR 63.6010(c)(7)). The electronic reporting template will be modified to

be consistent with the change to the regulatory text.

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

For the reasons explained in the proposed rule and after evaluation of the comments on the proposed amendments, the EPA is requiring owners and operators of facilities subject to the Rubber Tire Manufacturing NESHAP to submit electronic copies of performance test, compliance reports, and NOCS reports through the EPA's CDX, using CEDRI. The rationale for the proposed amendments to the electronic reporting provisions is in the preamble to the proposed rule (84 FR 58268).

Additionally, as stated above, the EPA has determined that requiring facilities to report the emission limit option for each affected source (piece of equipment) is unnecessary where the facility is using the same emission limit option for all affected sources subject to this standard. In this case, simply reporting the only utilized emission limit option provides the EPA the same level of information while reducing unnecessary reporting burden on industry.

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

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

The EPA estimates that there are 21 rubber tire manufacturing facilities that are subject to the Rubber Tire Manufacturing NESHAP affected by the final amendments to 40 CFR part 63, subpart XXXX. The bases of our estimates of affected facilities are provided in the memorandum, *Rubber Tire Major Source Memo*, which is available in the docket for this action. We are not currently aware of any planned or potential new or reconstructed rubber tire manufacturing facilities in the source category.

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

All major sources in the source category would be required to comply with the relevant emission standards at all times, including periods of SSM. We do not anticipate any air quality impacts as a result of the final amendments as facilities are already in compliance with emission limits during all periods, including SSM.

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

The one-time cost associated with reviewing the revised rule and becoming familiar with the electronic reporting requirements is estimated to

be \$6,740 (2017\$). The total cost per facility is estimated to be \$321. All other costs associated with notifications, reporting, and recordkeeping are believed to be unchanged because the facilities in each source category are currently required to comply with notification, reporting, and recordkeeping requirements and will continue to be required to comply with those requirements. The number of personnel-hours required to develop the materials in support of reports required by the NESHAP remain unchanged.

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

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a final rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a final rule. The total cost associated with this final rule is estimated to be \$6,740, which is a one-time cost associated with reviewing the revised rule and becoming familiar with the electronic reporting requirements. The estimated cost per facility is \$321. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

#### E. What are the benefits?

The EPA does not anticipate reductions in HAP emissions as a result of the final amendments to the Rubber Tire Manufacturing NESHAP. However, the final amendments would improve the rule by ensuring that the standards apply at all times and by requiring electronic submittal of initial notifications, performance test results, and compliance reports that would increase the usefulness of the data and would ultimately result in less burden on the regulated community. Because these final amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were estimated, we did not estimate any health benefits from reducing emissions.

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

We examined the potential for any environmental justice issues that might be associated with the source category by performing a demographic analysis of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer and

noncancer risks from the 40 CFR part 63, subpart XXXX source category across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Rubber Tire Manufacturing Source Category Operations*, available in the docket for this action (Docket ID No. EPA-HQ-OAR-2019-0392). The results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 kilometers (km) of the facilities.<sup>3</sup>

The results of the risk analysis indicate that there are approximately 4,500 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 Rubber Tire Manufacturing source category operations. The specific demographic results for minority populations, low-income populations, and/or indigenous peoples, indicate that the percentage of the population potentially impacted by Rubber Tire Manufacturing emissions is greater than its corresponding nationwide percentage for: African American (25 percent for the source category compared to 12 percent nationwide) and below the poverty level (21 percent for the source category compared to 14 percent nationwide). The remaining demographic group percentages within 50 km of Rubber Tire Manufacturing source category operations exposed to a cancer risk greater than or equal to 1-in-1 million are the same or less than the corresponding nationwide percentages.

The risks due to HAP emissions from this source category were found to be acceptable for all populations (e.g., with inhalation cancer risks less than or equal to 4-in-1 million for all populations and non-cancer hazard indexes are less than 1). We do not expect this final rule to achieve significant reductions in HAP emissions. However, this final rule will provide additional benefits to all populations, including these demographic groups that have a greater representation in the 50 km radius of modeled facilities, by improving the compliance, monitoring, and implementation of the NESHAP.

<sup>3</sup> This metric comes from the Benzene NESHAP. See 54 FR 38046.



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

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.A and IV.A and B of the proposal preamble and further documented in the memorandum, *Residual Risk Assessment for the Rubber Tire Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule*, available 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 Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

*B. Executive Order 13771: Reducing 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 Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1982.04. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing changes to the recordkeeping and reporting requirements associated with 40 CFR part 63, subpart XXXX, in the form of eliminating the SSM plan and related reporting requirements; including reporting requirements for deviations in compliance reports; and including the requirement for electronic submittal of reports. In addition, the number of facilities subject to the standards changed since the original ICR was finalized. The number of respondents was reduced from 23 to 21 based on consultation with industry representatives and state/local agencies.

*Respondents/affected entities:* The respondents to the recordkeeping and reporting requirements are owners or operators of rubber tire manufacturing facilities subject to 40 CFR part 63, subpart XXXX.

*Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart XXXX).

*Estimated number of respondents:* 21 facilities.

*Frequency of response:* The frequency of responses varies depending on the burden item. Responses include, reports of periodic performance tests and compliance reports.

*Total estimated burden:* The annual recordkeeping and reporting burden for responding facilities to comply with all of the requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be 5,870 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 156 hours (per year) for the Agency. Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* The annual recordkeeping and reporting cost after amendments for responding facilities to comply with all of the requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be \$819,000 (rounded, per year). Amendments for this rulemaking account for \$6,740 (2017\$) of the \$819,000 (rounded, per year). The total cost per facility is estimated to be \$321. There are no estimated capital and operation and maintenance costs. The total average annual Agency cost over the first 3 years after the amendments are final is estimated to be \$7,330.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

*D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities, since there are no small entities in the source category.

*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. While this action creates an enforceable duty on the private sector, the cost does not exceed \$100 million or more.

*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 has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Two facilities subject to this rulemaking are located on tribal land.

The EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. A summary of that consultation is provided in the *Rubber Tire Tribal Consultation Letter*, available in the docket for this rulemaking.

*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.A and IV.A and B of the proposal preamble and further documented in the memorandum, *Residual Risk Assessment for the Rubber Tire Manufacturing Source Category in Support of the 2020 Risk and Technology Review Final Rule*, available 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 rulemaking does not involve technical standards.

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

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

The documentation for this decision is contained in sections IV.A, IV.B, IV.F, and IV.G of the proposal preamble. As discussed in sections IV.A, IV.B, IV.F, and IV.G of the proposal preamble, we performed a demographic analysis for the source category, which is an assessment of risks to individual demographic groups, of the population close to the facilities (within 50 km and within 5 km). The results of this evaluation are contained in the memorandum, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Rubber Tire Manufacturing Source Category Operations*, which is available in the 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.

**Andrew Wheeler,**  
Administrator.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 63 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 XXXX—National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing**

■ 2. Section 63.5990 is amended by:  
■ a. Revising paragraphs (a), (b), (d), (f) introductory text, (f)(2) and (3); and  
■ b. Adding paragraph (f)(4).

The revisions and addition read as follows:

**§ 63.5990 What are my general requirements for complying with this subpart?**

(a) Before January 21, 2021, you must be in compliance with the applicable emission limitations specified in Tables 1 through 4 to this subpart at all times, except during periods of startup, shutdown, and malfunction if you are using a control device to comply with an emission limit. After January 20, 2021, you must be in compliance with the applicable emission limitations specified in Tables 1 through 4 to this subpart at all times.

(b) Before January 21, 2021, except as provided in § 63.5982(b)(4), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). After January 20, 2021, at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(d) Before January 21, 2021, for each affected source that complies with the emission limits in Tables 1 through 3 to this subpart using a control device, you

must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). After January 20, 2021, a startup, shutdown, and malfunction plan is not required.

\* \* \* \* \*

(f) Before January 21, 2021, in your site-specific monitoring plan, you must also address the ongoing procedures specified in paragraphs (f)(1) through (3) of this section as follows. After January 20, 2021, in your site-specific monitoring plan, you must also address the ongoing procedures specified in paragraphs (f)(1) through (4) of this section as follows.

\* \* \* \* \*

(2) Before January 21, 2021, ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d). After January 20, 2021, ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(1) and (2).

(3) Before January 21, 2021, ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i). After January 20, 2021, the owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.*, superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2); and

(4) After January 20, 2021, ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1), and (e)(2)(i).

■ 3. Section 63.5993 is amended by revising paragraphs (c) and (d) to read as follows:

**§ 63.5993 What performance tests and other procedures must I use?**

\* \* \* \* \*

(c) Before January 21, 2021, you may not conduct performance tests during periods startup, shutdown, or malfunction, as specified in § 63.7(e)(1). After January 20, 2021, 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 unless specified by the Administrator or an applicable subpart. 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.

(d) Before January 21, 2021, You must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(1) unless otherwise specified in the test method. Each test run must last at least 1 hour. After January 20, 2021, you must conduct three separate test runs for each performance test required in this section, as specified in § 63.5993(c) above, unless otherwise specified in the test method. Each test run must last at least 1 hour.

\* \* \* \* \*

■ 4. Section 63.5995 is amended by revising paragraph (d) to read as follows:

**§ 63.5995 What are my monitoring installation, operation, and maintenance requirements?**

\* \* \* \* \*

(d) For any other control device, or for other capture systems, ensure that the CPMS is operated according to a monitoring plan submitted to the Administrator with the Notification of Compliance Status report required by § 63.9(h). The monitoring plan must meet the requirements in paragraphs (a) and (d)(1) through (3) of this section. Conduct monitoring in accordance with the plan submitted to the Administrator unless comments received from the Administrator require an alternate monitoring scheme.

\* \* \* \* \*

■ 5. Section 63.6009 is amended by:  
■ a. Revising paragraph (e)(2); and  
■ b. Adding paragraph (k)

The revision and addition read as follows:

**§ 63.6009 What notifications must I submit and when?**

\* \* \* \* \*

(e) \* \* \*

(2) Before January 21, 2021, for each initial compliance demonstration required in tables 6 through 8 to this

subpart that includes a performance test conducted according to the requirements in table 5 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2). After January 20, 2021, for each initial compliance demonstration required in tables 6 through 8 to this subpart that includes a performance test conducted according to the requirements in table 5 to this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2) and § 63.6010(h)(1) through (3).

\* \* \* \* \*

(k) You must submit to the Administrator notification reports of the following recorded information. Beginning on January 21, 2021 or once the reporting form has been available on the Compliance and Emissions Data Reporting Interface (CEDRI) website for 1-year, whichever date is later, you must submit all subsequent notification of compliance status reports required in §§ 63.9(h) and 63.6009(d) through (i) to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov>). You must use the appropriate electronic report form (*i.e.*, template) on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/cedri>) for this subpart. The date on which the report form becomes available will be listed on the CEDRI website. If the reporting form for the notification of compliance status report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1 year, you must begin submitting all subsequent notification of compliance status reports via CEDRI. The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim

of CBI, if persons wish to assert a CBI, if you claim that some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate electronic reporting form found on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium 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 file with the CBI omitted shall be submitted to the EPA via the EPA's CDX CEDRI as described earlier in this paragraph. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. Where applicable, you may assert a claim of the EPA system outage, in accordance with § 63.6010(i), or force majeure, in accordance with § 63.6010(j), for failure to timely comply with this requirement.

- 6. Section 63.6010 is amended by:  
■ a. Revising paragraphs (b)(2) and (4);  
■ b. Revising paragraphs (c)(4) and (7);  
■ c. Revising paragraphs (d) introductory text, (1), and (2), and adding paragraph (d)(3);  
■ d. Revising paragraph (g); and  
■ e. Adding paragraphs (h) through (j).

The revisions and additions read as follows:

**§ 63.6010 What reports must I submit and when?**

\* \* \* \* \*

(b) \* \* \*

(2) Before January 21, 2021, the first semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.5983. After January 20, 2021, the first semiannual compliance report must be submitted electronically via CEDRI no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.5983.

\* \* \* \* \*

(4) Before January 21, 2021, each subsequent semiannual compliance report must be postmarked or delivered no later than July 31 or January 31,

whichever date is the first date following the end of the semiannual reporting period. After January 20, 2021, each subsequent semiannual compliance report must be submitted electronically via CEDRI no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

\* \* \* \* \*

(c) \* \* \*

(4) Before January 21, 2021, if you had a startup, shutdown and malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i). After January 20, 2021, a startup, shutdown, and malfunction plan is not required.

\* \* \* \* \*

(7) Before January 21, 2021, for each tire production affected source, the emission limit option in § 63.5984 and the compliance alternative in § 63.5985 that you have chosen to meet. After January 20, 2021, for each tire production affected source, the emission limit option in § 63.5984 and the compliance alternative in § 63.5985 that you have chosen to meet. If you have chosen the same emission limit option and compliance alternative for every tire production affected source at your facility, then you may report the emission limit option and compliance alternative for the facility rather than for each tire production affected source.

\* \* \* \* \*

(d) Before January 21, 2021, for each deviation from an emission limitation (emission limit or operating limit) that occurs at an affected source where you are not using a CPMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (4) and paragraphs (d)(1) and (2) of this section. This includes periods of startup, shutdown, and malfunction when the affected source is operating. After January 20, 2021, for each deviation from an emission limitation (emission limit or operating limit) that occurs at an affected source where you are not using a CPMS to comply with the emission limitations in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (3) and (d)(1) through (3) of this section. This includes periods of startup, shutdown, and malfunction when the affected source is operating.

(1) Before January 20, 2021 the total operating time of each affected source during the reporting period. After January 20, 2021, in the event that an

affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time and duration of each failure.

(2) Before January 20, 2021 information on the number, duration, and cause of deviations (including unknown cause, if applicable) and the corrective action taken. After January 20, 2021, for each failure to meet an applicable standard, record and retain a list of the cause of deviations (including unknown cause, if applicable), affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(3) After January 20, 2021, record actions taken to minimize emissions in accordance with § 63.5990, and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

\* \* \* \* \*

(g) Before July 24, 2021, or once the reporting form has been available on the CEDRI website for 1-year, whichever date is later, if acceptable to both the Administrator and you, you may submit reports and notifications electronically. Beginning on July 24, 2021, or once the reporting form has been available on the CEDRI website for 1-year, whichever date is later, you must submit compliance reports required in § 63.6010(c)(1) through (10), as applicable, to the EPA via the CEDRI. The CEDRI interface can be accessed through the EPA's CDX (<https://cdx.epa.gov>). You must use the appropriate electronic report form on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/cedri>) for this subpart. The date on which the report form becomes available will be listed on the CEDRI website. If the reporting form for the compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1-year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed to be CBI. Although we do not expect persons to assert a claim of CBI, if

persons wish to assert a CBI, if you claim that some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate electronic reporting form found on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium 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 file with the CBI omitted shall be submitted to the EPA via the EPA's CDX CEDRI as described earlier in this paragraph. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(h) After January 20, 2021, if you use a control system (add-on control device and capture system) to meet the emission limitations, you must also conduct a performance test at least once every 5 years following your initial compliance demonstration to verify control system performance and reestablish operating parameters or operating limits for control systems used to comply with the emissions limits. Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (h)(1) through (3) of this section.

(1) 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/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test. Submit the results of the performance test to the EPA via the CEDRI, which can be accessed through the EPA's CDX (<https://cdx.epa.gov>). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) 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. The results of the

performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) CBI. If you claim some of the information submitted under paragraph (h) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be 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. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium 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 file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (h) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c) emissions data is not entitled to confidential treatment and requires EPA to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(i) After January 20, 2021 if you are required to electronically submit a report or notification (i.e., Notification of Compliance Status Report) through CEDRI in the EPA's CDX, you may assert a claim of the EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of the EPA system outage, you must meet the requirements outlined in paragraphs (i)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report or notification within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning 5 business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) 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 has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The 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.

(6) The decision to accept the claim of the EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report or notification must be submitted electronically as soon as possible after the outage is resolved.

(j) After January 20, 2021 if you are required to electronically submit a report or notification (i.e., Notification of Compliance Status Report) through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (j)(1) through (5) of this section.

(1) You may submit a claim if 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 five business days prior to the date the submission is due. 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).

(2) 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 has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The 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.

(4) 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.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 7. Section 63.6011 is amended by:

■ a. Revising paragraph (a)(3); and

■ b. Adding paragraph (e).

The revision and addition read as follows:

**§ 63.6011 What records must I keep?**

(a) \* \* \*

(3) Before January 21, 2021, the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. After January 20, 2021, it is not required to keep records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

\* \* \* \* \*

(e) After January 20, 2021 any records required to be maintained by this subpart 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 63.6015 is amended by revising the definition for "Deviation" to read as follows:

**§ 63.6015 What definitions apply to this part?**

\* \* \* \* \*

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

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

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

(3) Before January 21, 2021, fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, and malfunction, regardless of whether or not such failure is permitted by this subpart. On and after

January 21, 2021, this paragraph no longer applies.

■ 9. Table 15 of Subpart XXXX is revised to read as follows:

\* \* \* \* \*

**TABLE 15 TO SUBPART XXXX OF PART 63—REQUIREMENTS FOR REPORTS**  
 [As stated in § 63.6010, you must submit each report that applies to you according to the following table]

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	<p>a. If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period. If there were no periods during which the CPMS was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS was out-of-control during the reporting period</p> <p>b. If you have a deviation from any emission limitation during the reporting period at an affected source where you are not using a CPMS, the report must contain the information in § 63.6010(d). If the deviation occurred at a source where you are using a CMPS or if there were periods during which the CPMS were out-of-control as specified in § 63.8(c)(7), the report must contain the information required by § 63.5990(f)(3)</p> <p>c. Before January 21, 2021, If you had a startup, shutdown, and malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i). After January 20, 2021, this information is no longer required</p>	<p>Semiannually according to the requirements in § 63.6010(b), unless you meet the requirements for annual reporting in § 63.6010(f).</p> <p>Semiannually according to the requirements in § 63.6010(b), unless you meet the requirements for annual reporting in § 63.6010(f).</p> <p>Before January 21, 2021, semiannually according to the requirements in § 63.6010(b), unless you meet the requirements for annual reporting in § 63.6010(f). After January 20, 2021, this information is no longer required.</p>
2. Before January 21, 2021, immediate startup, shutdown, and malfunction report if you had a startup, shutdown, and malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan. After January 20, 2021, this report is no longer required	<p>a. Before January 21, 2021, actions taken for the event. After January 20, 2021, this report is no longer required</p> <p>b. Before January 21, 2021, the information in § 63.10(d)(5)(ii). After January 20, 2021, this report is no longer required</p>	<p>Before January 21, 2021, by fax or telephone within 2 working days after starting actions inconsistent with the plan. After January 20, 2021, this report is no longer required.</p> <p>Before January 21, 2021, by letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§ 63.10(d)(5)(ii)). After January 20, 2021, this report is no longer required.</p>
3. Performance Test Report	If you use a control system (add-on control device and capture system) to meet the emission limitations	Conduct a performance test at least once every 5 years following your initial compliance demonstration according to the requirements in § 63.5993.

■ 10. Table 17 of Subpart XXXX is revised to read as follows:

Before January 21, 2021, as stated in § 63.6013, you must comply with the applicable General Provisions (GP)

requirements according to the following table:

**TABLE 17 TO SUBPART XXXX OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX**

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes	Yes.
§ 63.4	Prohibited Activities	Prohibited activities; compliance date; circumvention; severability.	Yes	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes	Yes.
§ 63.6(a)	Applicability	GP apply unless compliance extension; GP apply to area sources that become major.	Yes	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes	Yes.
§ 63.6(b)(6)	[Reserved]			
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources that Become Major.		No	No.

TABLE 17 TO SUBPART XXXX OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX—Continued

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.6(c)(1)–(2) .....	Compliance Dates for Existing Sources	Comply according to date in subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes .....	Yes.
§ 63.6(c)(3)–(4) .....	[Reserved]			
§ 63.6(c)(5) .....	Compliance Dates for Existing Area Sources that Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes .....	Yes.
§ 63.6(d) .....	[Reserved]			
§ 63.6(e)(1)–(2) .....	Operation & Maintenance .....	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; and operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes .....	Yes.
§ 63.6(e)(3) .....	Startup, Shutdown, and Malfunction Plan.		Yes .....	No.
§ 63.6(f)(1) .....	Compliance Except During Startup, Shutdown, and Malfunction.		No. See § 63.5990(a) .....	No.
§ 63.6(f)(2)–(3) .....	Methods for Determining Compliance .....	Compliance based on performance test; operation and maintenance plans; records; inspection.	Yes .....	Yes.
§ 63.6(g)(1)–(3) .....	Alternative Standard .....	Procedures for getting an alternative standard .....	Yes .....	Yes.
§ 63.6(h) .....	Opacity/Visible Emission (VE) Standards		No .....	No.
§ 63.6(i) .....	Compliance Extension .....	Procedures and criteria for Administrator to grant compliance extension.	Yes .....	Yes.
§ 63.6(j) .....	Presidential Compliance Exemption .....	President may exempt source category from requirement to comply with rule.	Yes .....	Yes.
§ 63.7(a)(1)–(2) .....	Performance Test Dates .....		No .....	No.
§ 63.7(a)(3) .....	CAA section 114 Authority .....	Administrator may require a performance test under CAA section 114 at any time.	Yes .....	No.
§ 63.7(b)(1) .....	Notification of Performance Test .....	Must notify Administrator 60 days before the test .....	Yes .....	No.
§ 63.7(b)(2) .....	Notification of Rescheduling .....	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes .....	No.
§ 63.7(c) .....	Quality Assurance/Test Plan .....	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: test plan approval procedures; performance audit requirements; and internal and external quality assurance procedures for testing.	Yes .....	No.
§ 63.7(d) .....	Testing Facilities .....	Requirements for testing facilities .....	Yes .....	No.
§ 63.7(e)(1) .....	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during startup, shutdown, and malfunction; not a violation to exceed standard during startup, shutdown, and malfunction.	Yes .....	No.
§ 63.7(e)(2) .....	Conditions for Conducting Performance Tests.	Must conduct according to rule and the EPA test methods unless Administrator approves alternative.	Yes .....	No.
§ 63.7(e)(3) .....	Test Run Duration .....	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; and conditions when data from an additional test run can be used.	Yes .....	No.
§ 63.7(f) .....	Alternative Test Method .....	Procedures by which Administrator can grant approval to use an alternative test method.	Yes .....	No.
§ 63.7(g) .....	Performance Test Data Analysis .....	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status report; and keep data for 5 years.	Yes .....	No.
§ 63.7(h) .....	Waiver of Tests .....	Procedures for Administrator to waive performance test.	Yes .....	No.
§ 63.8(a)(1) .....	Applicability of Monitoring Requirements	Subject to all monitoring requirements in standard .....	Yes .....	Yes.
§ 63.8(a)(2) .....	Performance Specifications .....	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes .....	No.
§ 63.8(a)(3) .....	[Reserved]			
§ 63.8(a)(4) .....	Monitoring with Flares .....		No .....	No.
§ 63.8(b)(1) .....	Monitoring .....	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes .....	Yes.
§ 63.8(b)(2)–(3) .....	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes .....	Yes.
§ 63.8(c)(1) .....	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Applies as modified by § 63.5990(e) and (f).	No.
§ 63.8(c)(1)(i) .....	Routine and Predictable Startup, Shutdown, and Malfunction.		No .....	No.

TABLE 17 TO SUBPART XXXX OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX—  
Continued

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.8(c)(1)(ii)	Startup, Shutdown, and Malfunction not in Startup, Shutdown, and Malfunction Plan.		No	No.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How Administrator determines if source complying with operation and maintenance requirements; review of source operation and maintenance procedures, records, manufacturer's instructions, recommendations, and inspection of monitoring system.	Yes	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	Must install to get representative emission and parameter measurements; must verify operational status before or at performance test.	Yes	No.
§ 63.8(c)(4)	CMS Requirements		Applies as modified by § 63.5990(f).	No.
§ 63.8(c)(5)	Continuous Opacity Monitoring Systems Minimum Procedures.		No	No.
§ 63.8(c)(6)	CMS Requirements		Applies as modified by § 63.5990(e).	No.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods, including reporting	Yes	No.
§ 63.8(d)	CMS Quality Control		Applies as modified by § 63.5990(e) and (f).	No.
§ 63.8(e)	CMS Performance Evaluation		No	No.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test		No	No.
§ 63.8(g)	Data Reduction		Applies as modified by § 63.5990(f).	No.
§ 63.9(a)	Notification Requirements	Applicability and state delegation	Yes	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	Submit notification 120 days after effective date; notification of intent to construct/reconstruct, notification of commencement of construct/reconstruct, notification of startup; and contents of each.	Yes	Yes.
§ 63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed best available control technology or lowest achievable emission rate.	Yes	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes	No.
§ 63.9(f)	Notification of VE/Opaicity Test		No	No.
§ 63.9(g)	Additional Notifications When Using CMS.		No	No.
§ 63.9(h)	Notification of Compliance Status	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in when notifications must be submitted.	Yes	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than 1 source.	Yes	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General Requirements; keep all records readily available; and keep for 5 years..	Yes	Yes.
§ 63.10(b)(2)(i)–(iv)	Records related to Startup, Shutdown, and Malfunction.	Yes	No	No.
§ 63.10(b)(2)(vi) and (x)–(xi).	CMS Records	Malfunctions, inoperative, out-of-control; calibration checks; adjustments, maintenance.	Yes	No.
§ 63.10(b)(2)(vii)–(ix).	Records	Measurements to demonstrate compliance with emission limitations; -performance test, performance evaluation, and VE observation results; and measurements to determine conditions of performance tests and performance evaluations.	Yes	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes	Yes.
§ 63.10(b)(2)(xiii)	Records		No	No.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes	Yes.
§ 63.10(c)	Records		No	No.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	When to submit to Federal or State authority	Yes	No.
§ 63.10(d)(3)	Reporting Opacity or VE Observations		No	No.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.		Yes	No.
§ 63.10(e)	Additional CMS Reports		No	No.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Procedures for Administrator to waive	Yes	Yes.



TABLE 17 TO SUBPART XXXX OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO THIS SUBPART XXXX—Continued

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.11	Flares		No	No.
§ 63.12	Delegation	State authority to enforce standards	Yes	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes	Yes.
§ 63.14	Incorporation by Reference	Test methods incorporated by reference	Yes	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes	Yes.

After January 20, 2021, as stated in § 63.6013, you must comply with the applicable General Provisions (GP)

requirements according to the following table:

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes	Yes.
§ 63.4	Prohibited Activities	Prohibited activities; compliance date; circumvention; severability.	Yes	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes	Yes.
§ 63.6(a)	Applicability	GP apply unless compliance extension; GP apply to area sources that become major.	Yes	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes	Yes.
§ 63.6(b)(6)	[Reserved]			
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources that Become Major.		No	No.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Comply according to date in subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes	Yes.
§ 63.6(c)(3)–(4)	[Reserved]			
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources that Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes	Yes.
§ 63.6(d)	[Reserved]			
§ 63.6(e)(1)(i)–(ii)	Operations and Maintenance		No	No.
§ 63.6(e)(1)(iii)–(2)	Operation and Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; and operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan.		No	No.
§ 63.6(f)(1)	Startup, Shutdown, and Malfunction Exemption.		No. See § 63.5990(a)	No.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Compliance based on performance test; operation and maintenance plans; records; inspection.	Yes	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes	Yes.
§ 63.6(h)	Opacity/Visible Emissions (VE) Standards.		No	No.
§ 63.6(i)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes	Yes.
§ 63.6(j)	Presidential Compliance Exemption	President may exempt source category from requirement to comply with rule.	Yes	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates		No	No.
§ 63.7(a)(3)	CAA section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes	No.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test	Yes	No.
§ 63.7(b)(2)	Notification of Rescheduling	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes	No.

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.7(c)	Quality Assurance/Test Plan	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: test plan approval procedures; performance audit requirements; and internal and external quality assurance procedures for testing.	Yes	No.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes	No.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during startup, shutdown, and malfunction.	No	No.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to rule and the EPA test methods unless Administrator approves alternative.	Yes	No.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; and conditions when data from an additional test run can be used.	Yes	No.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes	No.
§ 63.7(g)	Performance Test Data Analysis	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status report; and keep data for 5 years.	Yes	No.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes	No.
§ 63.8(a)(1)	Applicability of Monitoring Requirements	Subject to all monitoring requirements in standard	Yes	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes	No.
§ 63.8(a)(3)	[Reserved]			
§ 63.8(a)(4)	Monitoring with Flares		No	No.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Applies as modified by § 63.5990(e) and (f).	No.
§ 63.8(c)(1)(i)	Routine and Predictable Startup, Shutdown, and Malfunction.		No	No.
§ 63.8(c)(1)(ii)	Startup, Shutdown, and Malfunction not in Startup, Shutdown, and Malfunction Plan.		No	No.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How the Administrator determines if source complying with operation and maintenance requirements; review of source operation and maintenance procedures, records, manufacturer's instructions, recommendations, and inspection of monitoring system.	No	No.
§ 63.8(c)(2)–(3)	Monitoring System Installation	Must install to get representative emission and parameter measurements; must verify operational status before or at performance test.	Yes	No.
§ 63.8(c)(4)	CMS Requirements		Applies as modified by § 63.5990(f).	No.
§ 63.8(c)(5)	Continuous Opacity Monitoring Systems Minimum Procedures.		No	No.
§ 63.8(c)(6)	CMS Requirements		Applies as modified by § 63.5990(e).	No.
§ 63.8(c)(7)–(8)	CMS Requirements	Out-of-control periods, including reporting	Yes	No.
§ 63.8(d)	CMS Quality Control		Applies as modified by § 63.5990(e) and (f).	No.
§ 63.8(d)(3)	Written Procedures for CMS		No	No.
§ 63.8(e)	CMS Performance Evaluation		No	No.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test		No	No.
§ 63.8(g)	Data Reduction		Applies as modified by § 63.5990(f).	No.
§ 63.9(a)	Notification Requirements	Applicability and state delegation	Yes	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	Submit notification 120 days after effective date; notification of intent to construct/reconstruct, notification of commencement of construct/reconstruct, notification of startup; and contents of each.	Yes	Yes.
§ 63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed best available control technology or lowest achievable emission rate.	Yes	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes	No.
§ 63.9(f)	Notification of VE/Opacity Test		No	No.

Citation	Subject	Brief description of applicable sections	Applicable to Subpart XXXX?	
			Using a control device	Not using a control device
§ 63.9(g)	Additional Notifications When Using CMS.		No	No.
§ 63.9(h)	Notification of Compliance Status	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in when notifications must be submitted.	Yes	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than 1 source.	Yes	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General Requirements; keep all records readily available; and keep for 5 years.	Yes	Yes.
§ 63.10(b)(2)(i) and (iv-v).	Records related to Startup, Shutdown, and Malfunction.		No	No.
§ 63.10(b)(2)(ii)	Recordkeeping of failures to meet a standard.		No.	See 63.6010 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii), (vi), and (x)-(xi).	CMS Records	Malfunctions, inoperative, out-of-control; calibration checks; adjustments, maintenance.	Yes	No.
§ 63.10(b)(2)(vii)-(ix).	Records	Measurements to demonstrate compliance with emission limitations; performance test, performance evaluation, and VE observation results; and measurements to determine conditions of performance tests and performance evaluations.	Yes	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes	Yes.
§ 63.10(b)(2)(xiii)	Records		No	No.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes	Yes.
§ 63.10(c)	Records		No	No.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	When to submit to Federal or State authority	Yes	No.
§ 63.10(d)(3)	Reporting Opacity or VE Observations		No	No.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.		No	No.
§ 63.10(e)	Additional CMS Reports		No	No.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Procedures for Administrator to waive	Yes	Yes.
§ 63.11	Flares		No	No.
§ 63.12	Delegation	State authority to enforce standards	Yes	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes	Yes.
§ 63.14	Incorporation by Reference	Test methods incorporated by reference	Yes	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes	Yes.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 350 and 355**

[EPA-HQ-SFUND-1988-0002, EPA-HQ-SFUND-1998-0002; FRL-10012-00-OLEM]

**Emergency Planning and Community Right-to-Know Regulations: Trade Secrecy Claims and Emergency Planning Notification**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or the Agency) is issuing a technical amendment to update the program websites for trade secrecy regulations. This action amends the regulations to remove the outdated substantiation form for trade secrecy claims from the Code of Federal Regulations. The most current substantiation form is posted on EPA program websites. The Agency is also including clarification within a note in the regulations for state coordination of emergency response.

**DATES:** This final rule is effective on July 24, 2020.

**ADDRESSES:** EPA has established two dockets for this action under Docket ID No. EPA-HQ-SFUND-1988-0002 and EPA-HQ-SFUND-1998-0002. All documents in the docket are listed on the [www.regulations.gov](http://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