ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2020–0572; FRL–7526–03–OAR]

RIN 2060–AU57

National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations Residual Risk and Technology Review and Flexible Polyurethane Foam Production and Fabrication Area Source Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Flexible Polyurethane Foam Fabrication Operations source category regulated under national emission standards for hazardous air pollutants (NESHAP). This action also finalizes the NESHAP technology review for two area source categories, Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication, which are combined in one subpart. In this action, the EPA is finalizing the proposed revisions to the Flexible Polyurethane Foam Fabrication Operations major source NESHAP, which include adding a numeric emission limit for existing flame lamination units, removing exemptions for periods of startup, shutdown, and malfunction (SSM) and specifying that the emissions standards always apply, requiring periodic performance tests, and requiring electronic reporting of performance test results and compliance reports. In this action, the EPA is also finalizing the proposed revisions to the NESHAP for Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area sources to remove references to the provisions of another NESHAP that has been revised and no longer contains the referenced provisions. Implementation of these final rules is not expected to result in significant changes to the hazardous air pollutant (HAP) emissions from affected facilities in these three source categories or to human health impacts or environmental impacts associated with those emissions. However, this action will result in improved monitoring, compliance, and implementation of the existing standards and codifies existing industry practices to prevent backsliding.

DATES: This final rule is effective on November 18, 2021.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2020–0572. 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 Ms. Lisa Sutton, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3450; fax number: (919) 541–4991; and email address: *sutton.lisa@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Chris Sarsony, 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) 541–4843; fax number: (919) 541–0840; and email address: *sarsony.chris@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. The Agency uses 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
CFR Code of Federal Regulations
CRA Congressional Review Act
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
GACT generally available control technology
HAP hazardous air pollutants(s)
HCl hydrochloric acid
HQ hazard quotient
HQREL hazard quotient reference exposure level
ICR Information Collection Request
km kilometer
MACT maximum achievable control technology
MIR maximum individual risk
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
RATA relative accuracy test audit
REL reference exposure level
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RIN Regulatory Information Number
RTR risk and technology review
SSM startup, shutdown, and malfunction
UMRA Unfunded Mandates Reform Act
TOSHI target organ-specific hazard index
tpy tons per year
UPL upper prediction limit
XML extensible markup language

Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Background information. On January 11, 2021, the EPA proposed revisions to the major source Flexible Polyurethane Foam Fabrication Operations NESHAP based on our RTR and to the NESHAP for Flexible Polyurethane Foam Production and Fabrication area sources based on our technology review. In this action, we are finalizing decisions and revisions for the rules. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in *Summary of Public Comments and Responses on the Proposed Rule for the Major Source Flexible Polyurethane Foam Fabrication NESHAP and the NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources (86 FR 1868, January 11, 2021*), Docket ID No. EPA–HQ–OAR–2020–0572. A ''track changes'' version of the regulatory language that incorporates

the changes in this action is available in the docket.

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

I. General Information

A. Does this action apply to me?

The source categories that are the subject of this final action are the Flexible Polyurethane Foam Fabrication Operations major source category regulated under 40 CFR part 63, subpart MMMMM, and the Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories, regulated under 40 CFR part 63, subpart OOOOOO. The North American Industry Classification System (NAICS) code for fabricators of flexible polyurethane foam is 326150, ''Urethane and Other Foam Product (except Polystyrene) Manufacturing.'' This list of categories and NAICS codes is not intended to be exhaustive but rather provides a guide for readers regarding the entities that this final action is likely to affect. The final standards will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this action.

The Flexible Polyurethane Foam Fabrication Operations major source category was added to the EPA's HAP source category list in 1996. (61 FR 28197, June 4, 1996.) The NESHAP for that major source category, 40 CFR part 63, subpart MMMMM, was promulgated in 2003. (68 FR 18062, April 14, 2003.) The Flexible Polyurethane Foam Fabrication area source category was added to the EPA's HAP source category list in 1999. (64 FR 38706, July 19, 1999.) The Flexible Polyurethane Foam Production area source category was added to the EPA's HAP source category list in 2002. (67 FR 70427, November 22, 2002.) The Flexible Polyurethane Foam Production major source category, Part 63, subpart III, was included on the EPA's initial HAP source category list. (57 FR 31576, July 16, 1992.) The maximum achievable control technology (MACT) standards for subpart III were initially promulgated in 1998. (63 FR 53980, October 7, 1998.) The EPA established one area source NESHAP at 40 CFR part 63, subpart OOOOOO, that applies to the two area source categories due to the similarity of their operations and because they are often collocated. (72 FR 38864, July 16, 2007.)

The Flexible Polyurethane Foam Fabrication Operations major source category and the Flexible Polyurethane Foam Fabrication area source category include facilities engaged in cutting, gluing, and/or laminating pieces of flexible polyurethane foam. These source categories include fabrication operations that are collocated with foam production plants as well as those located offsite from foam production plants. Emissions from foam fabrication primarily result from the lamination of polyurethane foam to adhere foam to other substrates and from the use of HAP-based adhesives in the gluing process. The Flexible Polyurethane Foam Production area source category includes facilities that manufacture foam made from a polymer containing a plurality of carbamate linkages in the chain backbone (polyurethane). Polyurethane is commonly made by reacting a polyisocyanate with an organic polyhydroxyl material in the presence of water. Application of blowing agents, catalysts, surfactants, and fillers transform the polyurethane into a foam with specialized properties.

This final action addresses the major source NESHAP that applies to the Flexible Polyurethane Foam Fabrication Operations major source category and addresses the area source NESHAP that applies to the Flexible Polyurethane Foam Production area source category and the Flexible Polyurethane Foam Fabrication area source category. 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/flexible-polyurethane-foam-fabrication-operations-national-emission.* 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 Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by January 18, 2022. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112 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. All other sources are ''area sources.'' 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. For area sources, CAA section 112(d)(5) gives the EPA discretion to set standards based on generally available control technologies or management practices (GACT standards) in lieu of MACT standards.

In the second stage of the NESHAP 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, which is applicable to both MACT and GACT standards, 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, which is limited to the MACT standards, 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).[1] For more information on the statutory authority for this rule, see the proposal preamble (86 FR 1868, January 11, 2021) and the memorandum, *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology,* December 14, 2017, available in the docket for this action (Document ID EPA–HQ–OAR–2020–0572–0016).

B. What are the source categories and how do the current NESHAPs regulate their HAP emissions?

The EPA promulgated MACT standards for major source Flexible Polyurethane Foam Fabrication

[1] 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.'').

Operations facilities in 2003 under 40 CFR part 63, subpart MMMMM. The standards apply to major sources of HAP at existing and new flexible polyurethane foam fabrication facilities. Because of their potential to generate HAP emissions, the processing units of interest at foam fabrication facilities are loop slitters and flame lamination units. The 2003 MACT standards for Flexible Polyurethane Foam Fabrication Operations require HAP emissions reductions and control for new flame lamination units and prohibit use of HAP-based adhesives in new and existing loop slitting operations. For new flame lamination units, a 90 percent reduction in HAP emissions is required. For existing flame lamination units, the 2003 rule had no MACT emission limits. For new and existing loop slitters, the 2003 MACT standards prohibited use of any adhesive containing 5 percent or more (by weight) of total HAP. The EPA estimates that there are currently three facilities subject to subpart MMMMM.

In 2007, the EPA promulgated GACT standards for the Flexible Polyurethane Foam Production area source category and the Flexible Polyurethane Foam Fabrication area source category together under 40 CFR part 63, subpart OOOOOO. The GACT standards required that methylene chloride be significantly reduced or eliminated from slabstock foam production, molded foam release agents, equipment cleaning, rebond foam mold release agents, and foam fabrication adhesive use. Although both area source categories were listed for regulation due to emissions of the urban HAP methylene chloride, the EPA finds that methylene chloride is no longer used within either source category. The Flexible Polyurethane Foam Production area source category includes facilities that manufacture foam made from polyurethanes, which are in the class of compounds called ''reaction polymers.'' There are three types of polyurethane foam production facilities: Slabstock flexible polyurethane foam (slabstock foam), molded flexible polyurethane foam (molded foam), and rebond foam. Slabstock foam is produced in large continuous buns that are then cut in the desired size and shape. Molded foam is produced by ''shooting'' the foam mixture into a mold of the desired shape and size. Rebond foam is made from scrap foam that is converted into a material primarily used for carpet underlay. The EPA estimates that there are 32 facilities currently subject to the area source standards, of which approximately 20 are believed to be owned by small businesses.

For both the Flexible Polyurethane Foam Operations major source category and the Flexible Polyurethane Foam Fabrication area source category, operations involve cutting, bonding, and/or laminating pieces of flexible polyurethane foam together or to other substrates. Typical bonding techniques include gluing, taping, and flame lamination.

Both the Flexible Polyurethane Foam Production and Flexible Polyurethane Fabrication Operations area source categories were listed for regulation due to emissions of the urban HAP methylene chloride. At the time of the initial area source standards promulgation, methylene chloride was the only urban HAP used at foam production and foam fabrication facilities. Now, however, there are no known urban HAP used at foam production and foam fabrication facilities. In the past, slabstock foam production facilities sometimes used methylene chloride as an auxiliary blowing agent to control the density and other properties of the foam as it expanded during the pouring process. Methylene chloride was also sometimes used as an equipment cleaner, in particular for mix heads. A small number of molded and rebond foam facilities used methylene chloride in mold release agents, and some molded foam facilities used it as a mixhead cleaner. Foam fabricators used methylene chloride-based adhesives to adhere pieces of foam to one another. Flame laminators have never used methylene chloride and, as such, are not regulated by the area source standards.

C. What changes did we propose for flexible polyurethane foam fabrication operations for major sources and flexible polyurethane foam production and fabrication area sources in our January 11, 2021, proposal?

On January 11, 2021, the EPA published a proposed rule in the **Federal Register** (86 FR 1868) for the Flexible Polyurethane Foam Fabrication Operations NESHAP for major sources, 40 CFR part 63, subpart MMMMM, and the NESHAP for Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication Area Sources, 40 CFR part 63, subpart OOOOOO, that took into consideration the RTR analyses for major sources and the technology review for area sources.

For the major source Flexible Polyurethane Foam Fabrication Operations NESHAP, we proposed that the health risks due to HAP emissions from the source category are acceptable, that the NESHAP provides an ample margin of safety to protect public health and that additional standards are not necessary to prevent an adverse environmental effect. To address emissions sources that do not have an emissions limit in the existing NESHAP, we proposed a numeric limit for HCl emissions from existing flame laminators under CAA section 112(d)(2) and (3). As a result of the technology review, we proposed to lower the amount of HAP that could be contained in an adhesive for that material to be considered a HAP-based adhesive. For this change, the definition of ''HAP-based adhesive'' was revised from adhesive with a HAP weight of 5 percent or more to adhesive with a HAP weight of 1 percent or more. In addition, we proposed to amend the NESHAP to list specific carcinogenic HAP that must be included in the adhesive HAP content calculation, rather than including references to other rules where these HAP were previously but are no longer listed. We also proposed revisions to the SSM provisions of this NESHAP to ensure it is consistent with the court decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008). Finally, we proposed revisions to the recordkeeping and reporting requirements of the NESHAP to require the use of electronic reporting of performance test reports and semiannual reports and to require initial and periodic performance testing (every 5 years) for flame lamination units.

For the NESHAP for Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication Area Sources, we proposed that no revisions to the NESHAP are necessary based on our technology review. Where subpart OOOOOO references the NESHAP for flexible polyurethane foam production major sources (40 CFR part 63, subpart III), we proposed to make conforming changes to reflect amendments made to subpart III. For additional information regarding the proposed rule, see the January 11, 2021, proposal (86 FR 1868).

III. What is included in these final rules?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Flexible Polyurethane Foam Fabrication Operations major source category and the CAA technology review provisions for the Flexible Polyurethane Foam Production and Fabrication area source categories. This action amends the Flexible Polyurethane Foam Fabrication Operations major source NESHAP and the NESHAP for the Flexible

Polyurethane Foam Production and Fabrication area source categories based on those determinations. This action also finalizes other changes to the Flexible Polyurethane Foam Fabrication Operations major source NESHAP, including the proposed addition of a numeric emissions limit for existing flame lamination units under the authority of CAA section 112(d)(2) and (3), revisions to the SSM requirements, addition of electronic reporting requirements, and editorial corrections. For the Flexible Polyurethane Foam Production and Fabrication area sources NESHAP, this action finalizes the proposed revisions to the rule to eliminate references to another NESHAP (Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production) that has been revised and no longer contains the referenced provisions.

A. What are the final rule amendments based on the risk review for the major source Flexible Polyurethane Foam Fabrication Operations source category?

The EPA proposed no changes to the Flexible Polyurethane Foam Fabrication Operations major source NESHAP based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from the Flexible Polyurethane Foam Fabrication Operations major source category are acceptable, the standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not making any revisions to the existing standards under CAA section 112(f), and we are readopting the existing standards. Further information regarding these decisions is provided in section IV of this preamble.

B. What are the final rule amendments based on the technology reviews for the major source Flexible Polyurethane Foam Fabrication Operations source category and the Flexible Polyurethane Foam Production and Fabrication area source categories?

We determined that there are developments in practices, processes, and control technologies that warrant revisions to the MACT standards for the major source Flexible Polyurethane Foam Fabrication Operations source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), consistent with the proposal, we are revising the MACT standards to include a revised definition of HAP-based adhesive. The analyses and rationale for these decisions are described in section IV.B of this preamble. As part of the technology review, we also identified a regulatory gap (a previously unregulated process) and are establishing a new standard to fill that gap as described in section III.C of this preamble.

C. What are the final rule amendments pursuant to section 112(d)(2) and (3) for the major source Flexible Polyurethane Foam Fabrication Operations source category?

During the technology review, we identified existing flame laminators as an unregulated process in the major source category. For major sources, the EPA is required to set technology-based standards for sources of HAP emissions that reflect the maximum reductions of HAP emissions achievable (after considering cost, energy requirements, and non-air health and environmental impacts). However, these standards must be no less stringent than the average emission performance of the best performing five sources for a source category with fewer than 30 sources, as is the case here. Therefore, to satisfy the requirements of CAA section 112(d)(2) and (3), consistent with the proposal, we are revising the major source Flexible Polyurethane Foam Fabrication Operations NESHAP to include a MACT standard for existing source flame laminators. The analyses and rationale for this standard are described in section IV.C of this preamble.

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

We are finalizing the proposed amendments to the major source Flexible Polyurethane Foam Fabrication Operations NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the 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 (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. Previously, the 2003 Flexible Polyurethane Foam Fabrication Operations NESHAP included exemptions for standards during SSM. As explained in section IV.E of the January 2021 proposal preamble (86 FR 1868 at 1885, January 11, 2021), the EPA proposed that the Flexible Polyurethane Foam Fabrication Operations NESHAP would require that the standards always apply, consistent with the court decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008).

Table 7 to subpart MMMMM of 40 CFR part 63 (General Provisions applicability table) is being revised to change the specification of the requirements that apply during periods of SSM. We eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemptions. The EPA also made other harmonizing changes to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemptions. We proposed to remove the SSM exemptions such that the standards always apply because we determined that facilities in this source category can always meet the applicable emission standards in the NESHAP, including periods of startup and shutdown, without additional standards or work practices. We received no information to cause us to change our conclusion; therefore, the EPA is finalizing the removal of the SSM exemptions and is requiring that the standards always apply. The legal rationale and detailed changes for startup and shutdown periods that we are finalizing here are set forth in the January 11, 2021, preamble to the proposed rule. See 86 FR 1868 at 1885 and 1886.

Further, as proposed, the EPA is not including standards for malfunctions. As discussed in the 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. See 86 FR 1868 at 1885 and 1886.

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

The EPA is requiring owners or operators of flexible polyurethane foam fabrication operations major sources to submit electronic copies of certain required performance test reports, performance evaluation reports, and semiannual reports through the EPA's Central Data Exchange using the Compliance and Emissions Data Reporting Interface (CEDRI). The final rule requires that performance test results and performance evaluation results be submitted using the Electronic Reporting Tool. For

semiannual reports, the final rule requires that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the templates for these reports are located on the CEDRI website.[2]

The electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. For a more thorough discussion of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the docket for this action (Document ID EPA–HQ–OAR–2020–0572–0012).

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

The revisions to the MACT standards being promulgated in this action are effective on November 18, 2021.

Affected sources that commenced construction or reconstruction on or before January 11, 2021, must comply with all amendments, except for the electronic format for submitting compliance reports, no later than 180 days after the effective date of the final rule, or upon startup, whichever is later. Affected sources that commence construction or reconstruction after January 11, 2021, must comply with all requirements of the subpart, including the amendments being finalized, except for the electronic format for submitting compliance reports, no later than the effective date of the final rule or upon startup, whichever is later. All affected sources must comply with the electronic compliance report requirements no later than either 180 days after the effective date of the final rule or once the report template for this subpart has been available on the CEDRI website for 1 year, whichever date is later. All affected facilities must continue to meet the current requirements of 40 CFR part 63, subpart MMMMM, until the applicable compliance date of the amended rule.

This final action is not a ''major rule'' as defined by 5 U.S.C. 804(2), so the effective date of the final rule is the promulgation date as specified in CAA section 112(d)(10). For existing sources, we are finalizing four changes that would impact ongoing compliance requirements for 40 CFR part 63, subpart MMMMM. As discussed elsewhere in this preamble, we are adding a numeric limit for HCl emissions from existing flame laminators. We are also adding a requirement that notifications, performance test results, and compliance reports be submitted electronically. Our experience with similar industries that are required to convert reporting mechanisms to install necessary hardware and software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, and reliably employ electronic reporting shows that a period of a minimum of 90 days, and, more typically, 180 days, is generally necessary to accomplish these revisions. For the final SSM revisions, we recognize that there are no facilities that are currently using the SSM provisions for new flame laminators, since there have not been any new sources since the standard was promulgated. As a result, we understand that no additional time is needed for compliance with the revised SSM provisions. Prior to proposal, we consulted with the regulated industry regarding the proposed limits for existing flame laminators and the requirement to conduct performance testing to demonstrate initial compliance within 180 days of the publication of the final rule and no less than every 5 years thereafter, to better understand the likely implications of the proposed revisions. Representatives of the company that owns the two impacted facilities indicated that performance testing could be done within the 180-day time frame for compliance. For the flame lamination unit existing sources that would be subject to the newly established emission limit, we understand that the facilities are able to meet the limit without add-on controls. However, we do recognize that facilities need time to conduct performance tests and demonstrate compliance with the emission limit.

To reduce the complication that different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose, considering our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA is finalizing a period of 180 days after the regulation's effective date within which all affected sources that commenced construction or reconstruction on or before January 11, 2021, must be in compliance with the regulation's revised requirements, with the exception of the electronic reporting requirements.

IV. What is the rationale for our final decisions and amendments for the major source Flexible Polyurethane Foam Fabrication Operations source category and the Flexible Polyurethane Foam Production and Fabrication area source categories?

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

A. Residual Risk Review for the Major Source Flexible Polyurethane Foam Fabrication Operations Source Category

1. What did we propose pursuant to CAA section 112(f) for the major source Flexible Polyurethane Foam Fabrication Operations source category?

We proposed that the health risks due to emissions of HAP from the major source Flexible Polyurethane Foam Fabrication Operations source category are acceptable and that the NESHAP provides an ample margin of safety to protect public health and that no additional standards are necessary to prevent an adverse environmental effect. Table 1 of this preamble provides a summary of the results of the inhalation risk assessment for the source category. More detailed information on the risk assessment can be found in the *Residual Risk Assessment for the Flexible Polyurethane Foam Fabrication Source Category in Support of the 2021*

[2] See *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

Risk and Technology Review Final Rule in the docket for this action.

TABLE 1—FLEXIBLE POLYURETHANE FOAM FABRICATION SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥ 1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [3]		Maximum screening acute noncancer HQ [4]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions
Source Category	0	0	0	0	0	0	0.002	0.002	HQREL = <1
Whole Facility	0.1		0		0.00001		0.2		

The results of the inhalation risk assessment using actual emissions data, as shown in Table 1 of this preamble, indicate that no carcinogens are emitted by this category. Therefore, the cancer MIR based on actual emissions (lifetime) is zero and the total estimated annual cancer incidence (national) from these facilities based on actual emission levels is zero excess cancer cases per year. The maximum chronic noncancer target organ-specific hazard index (TOSHI) value based on actual emissions is 0.002 driven by HCl. The maximum screening acute noncancer HQREL value (off-facility site) is 0.003 driven by HCl. No persistent and bio-accumulative HAP (PB–HAP) are emitted from the Flexible Polyurethane Foam Fabrication Operations source category, therefore, a multipathway assessment was not conducted. A screening-level evaluation of the potential adverse environmental risk associated with emissions of HCl indicated that no ecological benchmarks were exceeded.

As shown in Table 1, the maximum facility-wide cancer MIR is 0.1-in-1 million, driven by 2,4/2,6-toluene diisocyanate mixture (TDI) emissions from a vertical non-category point source and a non-category fugitive point source. The total estimated cancer incidence from the whole facility is 0.00001 excess cancer cases per year, or one excess case in every 100,000 years. The maximum facility-wide TOSHI for the source category is estimated to be 0.2, mainly driven by 2,4/2,6-TDI emissions from a vertical non-category point source and a non-category fugitive point source. Considering all the health risk information and factors discussed above, the EPA proposed that the risks are acceptable.

No carcinogens are emitted by the Flexible Polyurethane Foam Fabrication Operations source category. Therefore, there are no individuals in the exposed population with lifetime cancer risks above 1-in-1 million as a result of actual or allowable emissions from this category. In addition, the maximum chronic noncancer TOSHI value based on actual and allowable emissions is well below 1 (0.002 and 0.2, respectively) and the maximum screening acute noncancer HQ value (off-facility site) is also well below 1 (0.003). Therefore, the EPA proposed that additional emissions controls for flexible polyurethane foam fabrication operations facilities are not necessary to provide an ample margin of safety to protect public health. In addition, based on our screening-level evaluation of the potential for adverse environmental effects, we concluded that more stringent standards were not necessary to prevent an adverse environmental effect. Considering all analyses, we did not propose any changes to the NESHAP based on the risk review. For more details regarding the risk review, see the proposal preamble (86 FR 1868 at 1876).

2. How did the risk review change for the major source Flexible Polyurethane Foam Fabrication Operations source category?

The EPA has not made any changes to either the risk assessments or our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects for the major source Flexible Polyurethane Foam Fabrication Operations source category since the proposal was published on January 11, 2021 (86 FR 1868). We are finalizing the risk review as proposed with no changes.

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

We received one comment in support of and one comment against the proposed residual risk review and our determination is that no revisions are warranted under CAA section 112(f)(2) for the source category. The comment in support of the determination noted that the residual risk review was reasonable and supported by the available data. The comment opposed to the determination was related to a concern that the EPA may not have included all HAP emitted from the source category, particularly from flame retardants. After review of these comments, and with no information from which to conclude that any HAP emissions are missing from the data or analyses performed, we determined that no changes are needed to the risk assessment. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses on the Proposed Rule for the Major Source Flexible Polyurethane Foam Fabrication NESHAP and the NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources,* available in the docket for this rulemaking.

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

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand'' (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum chronic noncancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

In the second step of the approach, the EPA considers whether the emissions standards provide an ample margin of safety to protect public health ''in consideration of all health

[3] The TOSHI is the sum of the chronic noncancer HQ for substances that affect the same target organ or organ system.

[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values.

information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.*

For the Flexible Polyurethane Foam Fabrication Operations major source category, the risk analysis indicates that no carcinogens are emitted by the source category, and therefore, there is no cancer risk. In addition, the maximum chronic noncancer TOSHI value based on actual and allowable emissions is well below 1 and the maximum screening acute noncancer HQ value (off-facility site) is also well below 1. In addition, the screening-level evaluation of the potential for adverse environmental effects indicated that that no ecological benchmarks were exceeded.

We evaluated all comments on the risk review and determined that no changes to the review are needed. For the reasons explained in the proposal, we determined that the risks from the major source Flexible Polyurethane Foam Fabrication Operations 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 review as proposed and readopting the standards for the major source Flexible Polyurethane Foam Fabrication Operations source category.

B. Technology Review for the Major Source Flexible Polyurethane Foam Fabrication Operations Source Category and the Flexible Polyurethane Foam Production and Fabrication Area Source Categories

1. What did we propose pursuant to CAA section 112(d)(6) for the major source Flexible Polyurethane Foam Fabrication Operations Source Category and the Flexible Polyurethane Foam Production and Fabrication area source categories?

During the technology review, one development in a practice, process, or control technology was identified for loop slitter use in the Flexible Polyurethane Foam Fabrication Operations major source category. In addition, we identified existing flame laminators as an unregulated process in the major source category, and we proposed standards for those sources under CAA section 112(d)(2) and (3), as described in section IV.C of this preamble.

At the time of the development of the NESHAP, the EPA found that the foam fabrication industry had effectively discontinued the use of adhesives containing methylene chloride, which was the primary HAP in the adhesives used, and had switched to other adhesives that did not contain methylene chloride and contained only small amounts of other HAP. As a result, for both existing and new loop slitters, the definition of HAP-based adhesive included in the 2003 rule was an adhesive containing 5 percent (by weight) or greater of HAP. As part of the technology review, we reviewed other air toxics MACT standards and noted that several other NESHAP, developed both before and after the major source Flexible Polyurethane Foam Fabrication Operations NESHAP, include a definition of non-HAP adhesive or coating (where the coating definition included adhesives) with a lower percentage of HAP content than that of the definition included in the Flexible Polyurethane Foam Fabrication Operations rule. Additionally, through review of information provided by industry, we found that the current adhesives used in loop slitting operations are less than 1-percent HAP content by total weight. Based on the current industry standards of adhesive usage containing less than 1-percent HAP and the definition for HAP-based adhesive from similar source categories regulating adhesives, we proposed to revise the definition of ''HAP-based adhesive'' to read: ''an adhesive containing 1 percent (by weight) or more of HAP, according to EPA Method 311 (appendix A to 40 CFR part 63) or another approved alternative.''

We also proposed to amend 40 CFR 63.8802(a)(1)(i) and (a)(3)(i), which describe how to determine the mass fraction of HAP in each material used, to remove references to Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4). The references to 29 CFR 1910.1200(d)(4) were intended to specify which compounds must be included in calculating the total HAP content of a coating material if the compounds are present at 0.1-percent or greater by mass; however, 29 CFR 1910.1200(d)(4) has been amended and no longer readily defines which compounds are carcinogens. We proposed to replace these references to OSHA-defined carcinogens and 29 CFR 1910.1200(d)(4) with a list (in a proposed new Table 8 to 40 CFR part 63, subpart MMMMM) of those HAP that must be included in calculating total HAP content of a coating material if they are present at 0.1 percent or greater by mass. We proposed to include HAP in this table if they were categorized in the EPA's *Prioritized Chronic Dose-Response Values for Screening Risk Assessments* (May 9, 2014), as a ''human carcinogen,'' ''probable human carcinogen,'' or ''possible human carcinogen'' according to *The Risk Assessment Guidelines of 1986* (EPA/600/8–87/045, August 1987),[5] or as ''carcinogenic to humans,'' ''likely to be carcinogenic to humans,'' or with ''suggestive evidence of carcinogenic potential'' according to the *Guidelines for Carcinogen Risk Assessment* (EPA/630/P–03/001F, March 2005).[6] Detailed information of the technology review can be found in the memorandum titled *Technology Review for the Flexible Polyurethane Foam Manufacturing Source Category,* which is available in the docket for this action (Document ID EPA–HQ–OAR–2020–0572–0003).

For the Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories, we found the listed urban HAP methylene chloride is no longer used within either source category. Additionally, we did not find any advances in technologies during our review of the source categories. Detailed information of the technology review can be found in the memorandum titled *Technology Review for the Flexible Polyurethane Foam Production and Fabrication Area Source Categories,* which is available in the docket for this action (Document ID EPA–HQ–OAR–2020–0572–0004).

2. How did the technology review change for the major source Flexible Polyurethane Foam Fabrication Operations Source Category and the Flexible Polyurethane Foam Production and Fabrication area source categories?

The EPA has not made any changes to the technology review since the proposal was published on January 11, 2021. We are finalizing the technology review as proposed with no changes.

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

We received comments in support of the proposed technology reviews and the revisions we proposed to the definition of HAP-based adhesive resulting from the findings of the

[5] See *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants.*

[6] See *https://www.epa.gov/risk/guidelinescarcinogen-risk-assessment.*

technology review. All commenters supported the proposed revision to the definition of HAP-based adhesive. One commenter noted that the proposed revision should not have an adverse impact on loop-slitting and that it is supported by the industry. Two commenters specifically supported this revision in its effect in limiting backsliding. After review of these comments, we determined that no changes are needed to the technology reviews or the proposed revised definition of HAP-based adhesive. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses on the Proposed Rule for the Major Source Flexible Polyurethane Foam Fabrication NESHAP and the NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources,* available in the docket for this rulemaking.

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

We evaluated all comments on the technology reviews and determined that no changes to the reviews are needed. Commenters identified no developments in practices, processes, or control technologies advances in technologies to consider, beyond the technology-related development identified in the proposal (industry practice of using lower-HAP adhesive in loop-slitting operations). Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology reviews as proposed.

C. Actions Taken Pursuant to CAA Sections 112(d)(2) and 112(d)(3)

1. What did we propose for the major source Flexible Polyurethane Foam Fabrication Operations Source Category?

Pursuant to CAA section 112(d)(2) and (3), we proposed to establish a numeric limit in the Flexible Polyurethane Foam Fabrication Operations major source NESHAP for HCl emissions from existing flame laminators. Through the technology review, we identified these units as sources of HAP emissions that did not have MACT standards in the NESHAP. For the four existing source flame lamination units in the source category, HCl emissions data from only one of these units is available, and the proposed MACT floor was based on the HCl data for this unit. To determine the level of the MACT floor, the Upper Prediction Limit method was used to account for variability in flame laminator emissions performance, and the MACT floor was calculated at 1.45 pounds per hour of HCl.[7]

The EPA also evaluated whether a beyond-the-floor emissions limit would be appropriate; specifically, we evaluated whether the incremental emissions reduction achievable with a venturi scrubber would be cost effective. The venturi scrubber was the only control technology in use at flame lamination sources that was identified by the EPA with the initial promulgation of the NESHAP, and no other developments in control technologies were identified in the review of these standards. The EPA estimated that the average incremental cost per ton of HCl emissions reduced with this technology would be approximately $26,000 and found that this would not be cost effective for the control of HCl. Therefore, we proposed that floor-level MACT controls are appropriate for existing flame laminators.

2. What changed since proposal?

In the final rule, we have made revisions in several sections to clarify that the flame lamination emission limit applies to each flame lamination line individually. As 40 CFR 63.8784(b)(2) states that the flame lamination affected source is the collection of all flame lamination lines, these revisions will make it clear that the limit is for each flame lamination line within an affected source rather than the collection of all flame lamination lines of an affected source.

For existing flame lamination units, we have also revised the final rule to include a more appropriate method of calculating the HCl emissions rate. In the proposed rule, we proposed to require existing sources to use the same method of calculating the HCl emissions rate as that required for new and reconstructed sources. However, while that method is appropriate for determining compliance with an emissions limit that requires a certain emissions percentage reduction using a control device, it is not appropriate for the existing source emissions limit that requires emissions to be below a specified numeric value, regardless of the use of a control device. Therefore, to correct this deficiency in the final rule, we have added an HCl calculation method that is appropriate to the emissions limit format and is based on the concentration of HCl and the volumetric flow rate of the flame lamination line's outlet gas stream to the atmosphere.

3. What are the key comments and what are our responses?

Comment: Several commenters support the establishment of emission standards for HCl emissions from existing flame lamination units; however, one commenter states that the proposed limits need to be strengthened. The commenter observes that there are four existing flame lamination units and that due to data availability, the EPA used data from only one of these to set the proposed MACT floor. The commenter states the EPA should have required the other sources to provide the necessary data for analysis and that there is no indication that the one source for which the EPA has data represents the average emission limitation achieved by the best-performing sources. The commenter adds that the EPA used the upper prediction limit (UPL) approach, which moves the floor further from the average emissions limitation achieved by the best-performing sources. Due to these aspects of the proposed MACT floor, the commenter states that the EPA has not met the CAA requirements to set the limits at the maximum achievable degree.

The commenter also states that the EPA fails to meet the beyond-the-floor requirements by failing to assure the maximum achievable degree of emission limitation. According to the commenter, the EPA decided not to require additional reductions beyond the floor purely based on cost data from its analysis conducted for the proposal of the NESHAP in 2001. The commenter states that the EPA did not provide evidence to support its assumption that the cost effectiveness today would be similar to what it was in 2001 after adjusting for inflation and that the EPA provided no information to support its claim that nothing has substantially changed with the control technology of a venturi scrubber since that time. The commenter adds that the EPA did not consider the health benefits of the emissions reduction.

Response: In setting the MACT floor for these sources, we have used all data available to the Agency. As provided for by CAA section 112(d)(3)(B), this limit was set at the average emission limitation achieved by the best performing sources for which the Administrator has or could reasonably obtain emissions information. In this instance, one of the four flame lamination units in operation in the source category has been tested for HAP emissions. Therefore, this one emissions

[7] See *MACT Floor and Beyond-the-Floor Analysis for Existing Flame Laminators in the Flexible Polyurethane Foam Fabrication Source Category* (Document ID EPA–HQ–OAR–2020–0572–0002).

test, which represents performance of 25 percent of the flame lamination units in operation, represents the whole of the data available for these emissions sources and constitutes the basis for the MACT floor. Based on the information above, the EPA determined that the emissions information on which the MACT floor is based is representative of the source category. While it may have been possible for the EPA to require the facilities to conduct further HAP emissions testing to use in setting the MACT floor, due to several factors (including the additional time this would have added to the rulemaking process, the availability of at least one emissions test, and the expected types and levels of emissions expected from these units), the EPA determined, consistent with the Agency's discretion under the CAA, not to require additional emissions testing to be performed. Additionally, we note that while the commenter is concerned that the emissions limit set using the available data for one source may not be as stringent as the average of the best performing sources in the source category, the Administrator is required to set standards based on available data.

We disagree with the commenter that use of the UPL moves the floor further from the average emission limitation achieved by the best performing sources. To develop the proposed HCl MACT standard for existing flame lamination units, the EPA used the UPL statistical methodology, which the EPA has used in many rulemakings and which was upheld by the D.C. Circuit Court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579 (D.C. Cir. 2016). That is, the best performers, and their level of performance, are determined after accounting for sources' normal operating variability. The UPL represents the value below which one can expect the mean of a specified number of future observations (*e.g.,* 3-run average) to fall, for the specified level of confidence, based upon the results of an independent sample from the same population.

The UPL approach allows for the development of the average emissions value that the source is achieving, given that the MACT floor is derived from short-term emissions test data and such data are not representative of the range of operating conditions that the facility faces on a day-to-day basis. In statistical terms, each test produces a limited data sample, not a complete enumeration of the available data for performance of the unit over a long period of time. Therefore, the EPA needs to adjust the short-term data to account for these varying conditions to properly estimate the source's performance over time.

In calculating the UPL that we proposed as the MACT floor for existing flame lamination lines, we tested the dataset (three runs) for skewness and kurtosis to determine that the non-normal (lognormal) data distribution is the best representation of the sample set, and we used the UPL equation appropriate to that data distribution. Because the floor is based on the performance of a single unit, our evaluation of the data was limited to ensuring that the emission limit is a reasonable estimate of the performance of the unit based on our knowledge about the process and controls. The wide range in HCl emissions shown by the available data for this best-performing unit indicates that variability is significant, and we determined that the emission limit is representative of the actual performance of the unit upon which the limit is based, considering variability.

We note that after MACT standards are promulgated, we are required to review those standards periodically, and for such reviews, we typically have significant additional HAP emissions data from the intervening years of compliance with which to further assess the actual performance of the various emission sources. We anticipate that this will be the case for existing flame lamination lines.

As part of the technology review, a search for information on venturi scrubbers was undertaken and no new information on their performance or costs was found that would indicate that our previous cost analysis is not representative of current costs. No information was received during the comment period to suggest that these assumptions were incorrect.

We concluded in the residual risk assessment that risks from the source category are acceptable and that the standards provide an ample margin of safety. The addition of new MACT standards for HCl for existing sources will further reduce risks from the source category.

Comment: One commenter asserts that the EPA, in setting emission standards for uncontrolled HAP emissions for this source category, must include emission standards for 1-bromopropane (1–BP, also known as n-propyl bromide) as a ''necessary'' revision to satisfy its legal obligation in this rulemaking, citing *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020) (*LEAN*). The commenter notes that the EPA has determined that 1–BP is an ''air pollutant'' that ''may reasonably be anticipated to cause adverse effects to human health'' and that it therefore qualifies as a HAP, and the commenter points out that the EPA, having granted 1–BP for listing as a HAP, has not yet completed that listing process.

Noting that at least one source reported using 1–BP, the commenter argues that the EPA should gather further information and ensure all sources meet emission standards for 1–BP that satisfy § 7412(d) and (f). The commenter cited a recent risk evaluation under TSCA, in which ''EPA has determined that risk from emissions to the ambient air of 1–BP could be eliminated or reduced to a sufficient extent by actions taken under the CAA.'' The commenter believes the EPA acted unlawfully and in an arbitrary manner by failing in this rulemaking to assess 1–BP emissions and propose emission standards for 1–BP.

Response: The EPA does not agree that the *LEAN* decision compels regulation of 1–BP for this sector, because that decision only goes to timing; the EPA must address any regulatory gaps (that is, any unregulated HAP emissions from the source category which the EPA is required to regulate) when it conducts a technology review for that category. For this source category, the EPA received information indicating that no major sources are using 1–BP and few to no area sources may be using 1–BP in small quantities as an equipment cleaner. At this time, there is no requirement to set standards for 1–BP as part of the review for major sources in this category during the CAA section 112(d)(6) technology review because 1–BP is not emitted by any major sources in this source category. As for the area sources, the EPA need only review the standards set for the urban HAP for which this area source category was listed under CAA section 112(c)(3), which is methylene chloride. We are not obligated to set standards for other listed HAP that are emitted from this area source category.[8] *See Desert Citizens Against Pollution* v. *EPA,* 699 F.3d 524, 525–26 (D.C. Cir. 2012).

4. What is the rationale for our final approach for the actions taken pursuant to CAA sections 112(d)(2) and 112(d)(3)?

We evaluated all comments received regarding the proposed standard for existing flame lamination units and determined that no changes to the level of the standard are needed. We conclude that the standard, which is based on the UPL and emissions data

[8] The EPA notes that while 1–BP is not yet a listed HAP, it soon will be.

from a single unit, represents the average emission limitation achieved by the best performing sources for which the Administrator has or could reasonably obtain emissions information. A more detailed explanation for this decision may be found in responses provided earlier in this document. Through further review of the proposed rule, we determined that clarifications are needed for the final rule language to ensure it is clear the flame lamination emissions limits apply to each individual flame lamination line, and we have revised the final rule accordingly. In addition, to correct a deficiency in the proposed rule's HCl emissions calculation method for existing source flame lamination units, we have added an appropriate calculation method in the final rule.

D. Removal of the SSM Exemptions

1. What did we propose for the major source Flexible Polyurethane Foam Fabrication Operations NESHAP?

The EPA proposed amendments to the major source Flexible Polyurethane Foam Fabrication Operations NESHAP to remove the provisions related to SSM to ensure that they are consistent with the court decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008) that standards always apply. As detailed in the January 2021 proposal, we proposed to change the requirements for SSM by removing the exemption for new flame laminators from the requirements to meet the standard during SSM periods and by removing the requirement to develop and implement an SSM plan. The EPA proposed revisions to Table 7 of subpart MMMMM, The Applicability of General Provisions, to remove SSM exemptions and plan development for new flame lamination sources.

2. What changed since proposal?

We determined that no changes were necessary to the proposed revised requirements for SSM periods. Therefore, we are finalizing the revised provisions related to SSM periods as proposed (86 FR 1868 at 1885, January 11, 2021).

3. What are the key comments and what are our responses?

We received comments in support of the proposed revisions regarding SSM periods. Generally, commenters supported the proposed removal of the exemption for periods of SSM and the elimination of the requirement to develop an SSM plan, recognizing that these changes are consistent with court decisions requiring that the CAA standards always apply. After review of these comments, we determined that no changes are needed to the proposed revisions regarding SSM periods. The comments and our specific responses can be found in the document, *Summary of Public Comments and Responses on the Proposed Rule for the Major Source Flexible Polyurethane Foam Fabrication NESHAP and the NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources,* available in the docket for this rulemaking.

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

We evaluated all comments on the EPA's proposed amendments to remove the SSM provisions. For the reasons explained in the proposed rule, we determined that the proposed removal of the SSM exemptions is required to be consistent with the 2008 court decision that standards always apply. Therefore, we are finalizing our approach for removing the SSM exemptions as proposed.

E. Electronic Reporting

1. What did we propose?

We proposed amendments to the major source Flexible Polyurethane Foam Fabrication Operations NESHAP to require owners or operators to submit electronic copies of initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports through the EPA's Central Data Exchange (CDX) using CEDRI. Additionally, we proposed two broad circumstances in which electronic reporting extensions may be provided at the discretion of the Administrator. The EPA proposed these extensions to protect owners or operators from noncompliance in cases where they are unable to successfully submit a report by the reporting deadline for reasons outside of their control, including CDX and CEDRI outages and *force majeure* events, such as acts of nature, war, or terrorism.

2. What changed since proposal?

We determined that no changes were necessary to the proposed requirements for owners or operators of flexible polyurethane foam fabrication operations major sources to submit initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports electronically using CEDRI. Therefore, we are finalizing the electronic reporting provisions as proposed (86 FR 1886, January 11, 2021).

3. What are the key comments and what are our responses?

The EPA received one comment that generally supported the proposed amendment to require electronic reporting but was opposed to the *force majeure* provisions due to concern that those provision would allow for unreported exceedances to go unchecked. After review and consideration of this comment, we determined that no changes are needed to the electronic reporting requirements or their force majeure provisions. This comment and our specific response can be found in the document, *Summary of Public Comments and Responses on the Proposed Rule for the Major Source Flexible Polyurethane Foam Fabrication NESHAP and the NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources,* available in the docket for this rulemaking.

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

We are finalizing as proposed a requirement in the major source NESHAP that owners or operators of flexible polyurethane foam fabrication operations submit electronic copies of notifications, performance evaluation reports, and semiannual compliance reports using CEDRI. We also are finalizing, as proposed, provisions that allow facility owners or operators a process to request extensions for submitting electronic reports for circumstances beyond the control of the facility (*i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event). Such extensions are intended to be available only in extraordinary circumstances; they are limited in duration and do not relieve owners or operators of their reporting obligations. The electronic reporting amendments will increase the ease and efficiency of data submittal for owners and operators of major source flexible polyurethane foam fabrication operations and will make the data more accessible to regulators and the public.

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

A. What are the affected facilities?

Currently, there are three major sources operating in the United States that are subject to the major source Flexible Polyurethane Foam Fabrication Operations NESHAP. The affected sources under the NESHAP include flexible polyurethane foam fabrication plant sites that operate loop slitters and/or flame laminators. Facilities that use loop slitter adhesive processes would be

required to comply with a ban on the use of adhesives containing air toxics. However, the EPA estimates that current air toxic emissions from loop slitter adhesive users are essentially zero as the result of changes in adhesive composition required by OSHA's permissible exposure limit for methylene chloride that was enacted prior to the promulgation of the original MACT standard. Additionally, the EPA estimates that current air toxic emissions from flame laminators for the entire source category are less than 3.5 tpy.

Currently, there are approximately 32 area sources subject to the Flexible Polyurethane Foam Production and Fabrication NESHAP for area sources. The area source standard only regulates methylene chloride emissions, and, similar to the major source standards, emissions of methylene chloride are essentially zero, as required by OSHA's permissible exposure limit for methylene chloride that was enacted prior to the promulgation of the original GACT standards. Based on information provided by industry, there are no emissions of methylene chloride from these sources. For detailed information, please see the memorandum titled *Technology Review for Flexible Polyurethane Foam Production and Fabrication Area Sources,* available in the docket for this action (Document ID EPA–HQ–OAR–2020–0572–0004).

B. What are the air quality impacts?

Current estimated emissions from the Flexible Polyurethane Foam Fabrication Operations source category are approximately 3.5 tpy. We do not estimate any HAP emission reductions from the final amendment adding MACT limits for existing flame laminators nor from the final amendment revising the definition of HAP-based adhesives for loop slitters. Both revisions reflect current practices.

C. What are the cost impacts?

The final amendments to the Flexible Polyurethane Foam Fabrication Operations NESHAP for major sources are expected to have minimal cost impacts. The costs are associated with periodic emissions performance testing, recordkeeping and reporting, electronic reporting, and reviewing the proposed rule. Three major source facilities are affected by these costs, although only two of them are affected by the emissions performance testing requirement. The periodic performance test is required every 5 years, but only for major source facilities that perform flame lamination. Most of the information requirements in the final rule are unchanged from those of the proposed rule. However, after proposal of this action, the EPA revised its cost estimates to incorporate updated information about the costs associated with reporting and performance testing for sources in the flame lamination subcategory. The cost estimates are slightly higher than at proposal. The revised cost estimates reflect that a performance test is required for each flame lamination line at a facility, although the labor required for each test is estimated to be lower than at proposal. See the Economic Impact Analysis in the docket and the accompanying workbook for the updated assumptions and cost estimates (Docket ID No. EPA–HQ–OAR–2020–0572).

For the two affected facilities with flame lamination lines, the year 1 costs are estimated to be about $22,000 per facility, while the undiscounted costs related to reporting and recordkeeping in the following years are estimated at about $2,600 per facility per year except for year 6 when another emissions test is required. The undiscounted costs in year 6 are estimated to be about $17,000 per facility for the sources with flame laminators. For the major source that does not perform flame lamination and thus does not need to fulfill the testing requirement, the costs in year 1 are estimated to be about $6,000, while the undiscounted costs in the following years are estimated at about $2,600 per year.

Because the final amendments to the Flexible Polyurethane Foam Production and Fabrication Area Sources NESHAP impose no new requirements on area sources, there will be no cost impacts for area sources.

D. What are the economic impacts?

The final amendments to the Flexible Polyurethane Foam Fabrication Operations NESHAP for major sources and the Flexible Polyurethane Foam Production and Fabrication NESHAP for area sources are not expected to have market impacts. Over a 10-year timeframe from 2022 to 2031, the net present value of the estimated cost impacts is about $135,000 at a 3 percent discount rate and $121,000 at a 7 percent discount rate in 2019 dollars. The equivalent annualized value of the cost impacts is about $16,000 at a 3 percent discount rate and $17,000 at a 7 percent discount rate. Since there are no expected costs for area sources, and the estimated costs for major sources are minimal, no significant economic impacts are anticipated due to the final amendments. For more information regarding the facility-level cost estimates as well as the net present value and equivalent annualized value estimates, see the memorandum titled *Economic Impact Analysis for Final Residual Risk and Technology Review of the National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2020–0572).

E. What are the benefits?

This action will result in improvements to the rule and prevent backsliding. In general, backsliding is when a source uses a process, equipment, and/or ingredients that the industry in general has moved beyond in favor of processes, equipment, and/or ingredients with fewer potential adverse environmental impacts. Specifically, the final amendments codify existing industry practices both for existing flame laminators and for new and existing sources that use adhesives with loop slitters. The final amendments also revise the standards such that they always apply. Additionally, the final amendments requiring electronic submittal of initial notifications, performance test results, and semiannual reports will increase the usefulness of the data, are in keeping with current trends of data availability, will further assist in the protection of public health and the environment, and will ultimately result in less burden on the regulated community.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 directs the EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms—specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994). Additionally, Executive Order 13985 was signed to advance racial equity and support underserved communities through federal government actions (86 FR 7009, January 20, 2021). The EPA defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and

commercial operations or programs and policies'' (*https://www.epa.gov/environmentaljustice*). In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution.

Based on an analysis of exposed populations, the EPA determined that the source categories do not pose a disproportionately high adverse health impact on minority populations and/or low-income populations, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) and referenced in Executive Order 13985 (86 FR 7009, January 20, 2021). The EPA remains committed to engaging with communities and stakeholders throughout the development of air pollution regulations.

To examine the potential for any environmental justice issues that might be associated with the major source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we also evaluated the distribution of HAP-related cancer and noncancer risks from the major source Flexible Polyurethane Foam Fabrication Operations source category across different demographic groups within the populations living near facilities.

The results of the demographic analysis for the major source category indicate that the minority population (being the total population minus the white population) is slightly higher within 5 km of the three facilities than the national percentage (40 percent versus 38 percent). This difference is accounted for by the larger African American population around the facilities (17 percent versus 12 percent nationally). In addition, the percentage of the population living within 5 km of facilities in the source category is greater than the corresponding national percentage for the demographic groups, ''Ages 0 to 17'' and ''Below the Poverty Level.'' When examining the risk levels of those exposed to emissions from Flexible Polyurethane Foam Fabrication facilities, we find that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1. The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Flexible Polyurethane Foam Fabrication Operations Source Category,* available in this docket for this action (Document ID EPA–HQ–OAR–2020–0572–0006).

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

The EPA determined that the environmental health or safety risks addressed by this action do not present a disproportionate risk to children. The health risk assessments for this action are contained in the document titled *Residual Risk Assessment for the Flexible Polyurethane Foam Fabrication Source Category in Support of the 2021 Risk and Technology Review Final Rule* available in the docket (Docket ID No. EPA–HQ–OAR–2020–0572).

VI. Statutory and Executive Order Reviews

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

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

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

B. Paperwork Reduction Act (PRA)

The information collection activities in 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 2027.09. 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. The ICR is specific to information collection associated with the Flexible Polyurethane Foam Fabrication Operations source category, through amendments to 40 CFR part 63, subpart MMMMM. (The subject rulemaking imposes no new information collection associated with either the Flexible Polyurethane Foam Production area source category or the Flexible Polyurethane Foam Fabrication area source category.) We are finalizing changes to the recordkeeping and reporting requirements associated with 40 CFR part 63, subpart MMMMM, in the form of: Requiring periodic (every 5 years) performance tests at major sources that perform flame lamination; eliminating the SSM plan and reporting requirements; including reporting requirements for deviations in the semiannual (periodic) report; and including the requirement for electronic submittal of reports. In addition, the number of facilities subject to the standards has changed. The number of respondents was reduced from 20 to 3 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 flexible polyurethane foam fabrication operations subject to 40 CFR part 63, subpart MMMMM.

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

Estimated number of respondents: 3 facilities.

Frequency of response: The frequency of responses varies depending on the burden item. Responses include one-time review of rule amendments, reports of periodic performance tests, and semiannual compliance reports.

Total estimated burden: The annual recordkeeping and reporting burden for responding facilities to comply with all requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be 113 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 51 hours (per year) for the Agency. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting cost for responding facilities to comply with all requirements in the NESHAP, averaged over the 3 years of this ICR, is estimated to be $21,600 (rounded, per year). The total operation and maintenance costs associated with performance test requirements, averaged over the 3 years of this ICR, is estimated to be $10,100 per year. The total average annual Agency cost over the first 3 years after the amendments are final is estimated to be $2,500.

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.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is

any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. As finalized, this action will impose new requirements only on major sources, and none of the major sources in the Flexible Polyurethane Foam Fabrication Operations source category are considered a small entity. Because this action imposes no new requirements on area sources, there will be no significant impact on any small entities among area sources. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in the industries that would be affected by this action nor are there any adverse health or environmental effects from this action. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections IV.A of this preamble.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

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

The documentation for this decision is contained in the technical reports titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Flexible Polyurethane Foam Fabrication Source Category Operations* and *Residual Risk Assessment for the Flexible Polyurethane Foam Fabrication Source Category in Support of the 2021 Risk and Technology Review Final Rule,* available in the docket for this action (Document ID EPA–HQ– OAR–2020–0572–0006).

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

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

Michael S. Regan,

Administrator.

For the reasons set out in the preamble, 40 CFR part 63 is amended as follows:

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

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

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

Subpart MMMMM—National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations

■ 2. Section 63.8784 is amended by revising paragraphs (c)(2) and (e) to read as follows:

§ 63.8784 What parts of my plant does this subpart cover?

* * * * *

(c) * * *

(2) If you add one or more flame lamination lines at a plant site where flame lamination lines already exist, the added line(s) shall be a new affected source and meet new source requirements if the added line(s) are at a flexible polyurethane foam fabrication plant site that has the potential to emit 10 tons per year or more of any HAP or 25 tons or more per year of any combination of HAP.

* * * * *

(e) An affected source is existing if it commenced construction or reconstruction on or before August 8, 2001.

■ 3. Section 63.8786 is amended by revising paragraph (b) and adding paragraph (f) to read as follows:

§ 63.8786 When do I have to comply with this subpart?

* * * * *

(b) If you have an existing affected source, you must comply with this subpart according to paragraphs (b)(1) and (b)(2) of this section, as applicable.

(1) If you have an existing loop slitter affected source, you must comply with the emission standards for existing sources no later than April 14, 2004.

(2) If you have an existing flame lamination affected source, you must comply with the emission standards for existing sources no later than May 17, 2022.

* * * * *

(f) You must comply with the electronic reporting requirements according to paragraphs (f)(1) and (f)(2) of this section.

(1) You must comply with the performance test and CMS performance evaluation requirements of § 63.8818(j) on or before May 17, 2022.

(2) You must comply with the compliance report requirements of

§ 63.8818(k) on or before May 17, 2022 or once the report template for this subpart has been available on the CEDRI website for 1 year, whichever date is later.

■ 4. Section 63.8794 is amended by:
■ a. Revising paragraphs (b), (c) and (d);
■ b. Removing and reserving paragraph (e); and
■ c. Revising paragraph (f) introductory text.

The revisions read as follows:

§ 63.8794 What are my general requirements for complying with this subpart?

* * * * *

(b) For each flame lamination affected source, you must be in compliance with the requirements in this subpart at all times.

(c) 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) For flame lamination affected sources in § 63.8786 using a control device to comply with the emission limitations in Table 1 to this subpart, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment during the period between the compliance date specified for your flame lamination affected source in § 63.8786 and the date upon which continuous compliance monitoring systems required by § 63.8810(c) have been installed and verified and any applicable operating limits have been set.

* * * * *

(f) For each monitoring system required by § 63.8810(c) for flame lamination sources, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements in paragraphs (f)(1) through (3) of this section.

* * * * *

■ 5. Section 63.8798 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 63.8798 By what date must I conduct performance tests or other initial compliance demonstrations?

* * * * *

(b) For each flame lamination affected source, you must conduct performance tests by the compliance date that is specified for your source in § 63.8786 and according to the provisions in § 63.7(a)(2).

(c) You must conduct subsequent performance tests to demonstrate compliance with the flame lamination emissions limitations in Table 1 to this subpart no less frequently than every 5 years from the date of the last performance test.

■ 6. Section 63.8800 is amended by:
■ a. Revising paragraphs (b), (c) and (e) introductory text;
■ b. Redesignating paragraph (f) as (g);
■ c. Adding new paragraph (f); and
■ d. Revising newly redesignated paragraph (g) introductory text.

The revisions and additions read as follows:

§ 63.8800 What performance tests and other procedures must I use to demonstrate compliance with the emission limit for flame lamination?

* * * * *

(b) Each performance test must be conducted according to the requirements in paragraph (c) of this section and under the specific conditions in Table 3 to this subpart.

(c) You must conduct each performance test under conditions representative of normal operations. You may not conduct performance tests during periods of SSM. 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.

* * * * *

(e) For new and reconstructed affected sources, you must determine the percent reduction of HAP emissions during the performance test according to paragraphs (e)(1) through (3) of this section.

* * * * *

(f) For existing affected sources, you must determine the HCl emissions rate according to paragraphs (f)(1) through (3) of this section.

(1) Calculate the concentration of HCl in the vent outlet to the atmosphere or at the control device outlet, if a control device is used, using the procedures in the specified test method.

(2) Determine the vent outlet gas stream volumetric flow rate or if a control device is used, the control device outlet gas stream volumetric flow rate, using the procedures in the specified test method.

(3) Calculate the HCl emission rate for the period of the performance test using Equation 2 of this section:

$$E_{HCl} = C \times AOF \quad \text{Eq.2}$$

Where:

E_{HCl} = Emission rate of HCl, lbs/hr.
C= average HCl concentration of vent or control device outlet stream for all test runs, lb/dscft.
AOF = average outlet volumetric flow rate of gas stream, dry basis, dscft/hr.

(g) You must also meet the requirements in paragraphs (g)(1) and (2) of this section.

* * * * *

■ 7. Section 63.8802 is amended by revising paragraphs (a)(1)(i) and (3)(i) to read as follows:

§ 63.8802 What methods must I use to demonstrate compliance with the emission limitation for loop slitter adhesive use?

(a) * * *
(1) * * *

(i) Include in the HAP total each HAP in Table 8 of this subpart that is measured at 0.1 percent by weight or more and any other HAP that is measured at 1.0 percent by weight or more. Express the weight fraction of each HAP you measure as a value truncated to four places after the decimal point (for example, 0.1234).

* * * * *

(3) * * *

(i) Include in the HAP total each HAP in Table 8 of this subpart that is present at 0.1 percent by weight or more and any other HAP that is present at 1.0 percent by weight or more.

* * * * *

■ 8. Section 63.8810 is amended by revising paragraphs (b) introductory text, (c) introductory text and (c)(1) to read as follows:

§ 63.8810 How do I monitor and collect data to demonstrate continuous compliance?

* * * * *

(b) If you own or operate a flame lamination affected source, you must meet the requirements in paragraphs (b)(1) through (3) of this section if you use a scrubber, or paragraph (b)(4) of this section if you use any other control device.

* * * * *

(c) If you own or operate a control device to meet the emissions limitations for a flame lamination affected source, you must meet the requirements in paragraphs (c)(1) through (4) of this section.

(1) Except for periods of monitoring-associated repairs and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating.

* * * * *

■ 9. Section 63.8812 is amended by:
■ a. Revising paragraph (b);
■ b. Removing and reserving paragraph (d); and
■ c. Revising paragraph (e) introductory text.

The revisions read as follows:

§ 63.8812 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(b) You must report each instance in which you did not meet each emission limit and each operating limit in Tables 1 and 2 to this subpart that applies to you. These instances are deviations from the operating limits in this subpart. These deviations must be reported according to the requirements in § 63.8818.

* * * * *

(e) You must meet the following requirements if you are complying with the adhesive use ban for loop slitter adhesive use described in § 63.8790(a).

* * * * *

■ 10. Section 63.8816 is amended by revising paragraphs (d), (f), (g) introductory text, and (h)(1) to read as follows:

§ 63.8816 What notifications must I submit and when?

* * * * *

(d) If you own or operate a flame lamination affected source, submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as required in § 63.7(b)(1).

* * * * *

(f) If you own or operate a flame lamination affected source, submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) that includes the results of the performance test conducted according to the requirements in Table 3 to this subpart. You must submit the notification before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(g) For each flame lamination affected source, the Notification of Compliance Status must also include the information in paragraphs (g)(1) and (2) that applies to you.

* * * * *

(h) * * *

(1) A list of each adhesive used at the affected source, its HAP content (percent by weight), and the manufacturer or supplier of each.

* * * * *

■ 11. Section 63.8818 is amended by:
■ a. Revising paragraphs (b) introductory text and (f);
■ b. Removing and reserving paragraph (i); and
■ c. Adding paragraphs (j) through (m).

The revisions and additions read as follows:

§ 63.8818 What reports must I submit and when?

* * * * *

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each compliance report for flame lamination affected sources semiannually according to paragraphs (b)(1) through (4) of this section.

* * * * *

(f) The compliance report for flame lamination affected sources required by § 63.8810(c) to conduct continuous monitoring must also contain the following information in paragraphs (f)(1) and (2) of this section.

(1) If there were no periods during which the CPMS was out-of-control in accordance with the monitoring plan, a statement that there were no periods during which the CPMS was out-of-control during the reporting period.

(2) If there were periods during which the CPMS was out-of-control in accordance with the monitoring plan, the date, time, and duration of each out-of-control period.

* * * * *

(j) For Performance Test and CMS Performance Evaluation Reports, beginning on May 17, 2022, within 60 days after the date of completing each performance test or CMS performance evaluation (as defined in § 63.2) required by this subpart, the owner or operator must submit the results of the performance test or CMS performance evaluation following the procedures specified in paragraphs (j)(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 or the performance evaluation of CMS measuring relative accuracy test audit (RATA) pollutants to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) *(https://cdx.epa.gov/).* The data must be submitted in a file format generated using 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 or the performance evaluation of CMS measuring RATA pollutants by methods that are not supported by the ERT, 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) *Confidential business information (CBI).* Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information submitted under paragraph (a)(1) or (2) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated using 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 paragraphs (a)(1) and (2) 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 the EPA is required to make emissions data available to the public. Thus, emissions

data will not be protected as CBI and will be made publicly available.

(k) When submitting reports electronically, on and after the date specified in § 63.8786(f)(2), you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). 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 CBI. You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. Unless the Administrator or delegated state agency or other authority has approved a different schedule for submission of reports, the report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form 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 must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (k). 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 the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(l) For claims of EPA system outage, when you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (l)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report 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 five 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 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 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 must be submitted electronically as soon as possible after the outage is resolved.

(m) For claims of force majeure, when you are required to electronically submit a 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 (m)(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.

■ 12. Section 63.8820 is amended by revising paragraph (b) to read as follows:

§ 63.8820 What records must I keep?

* * * * *

(b) For each flame lamination affected source, you must also keep the following records specified in paragraphs (b)(1) through (3) of this section.

(1) Records of performance tests, as required in § 63.10(b)(2)(viii).

(2) Records of the operating parameter values required in § 63.8810(b).

(3) The records specified in paragraphs (b)(3)(i) through (iii) of this section.

(i) The number of deviations. For each deviation, record the date, time, cause, and duration of the deviation.

(ii) For each deviation, record and retain a list of the 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.

(iii) Record actions taken to minimize emissions in accordance with § 63.8794(c), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

■ 13. Section 63.8830 is amended by revising the definitions of ''Deviation'' and ''HAP-based adhesive'' to read as follows:

§ 63.8830 What definitions apply to this subpart?

* * * * *

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

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

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

(3) Fails to meet any emission limitation (including any operating limit) in this subpart, regardless of whether such failure is permitted by this subpart.

* * * * *

HAP-based adhesive means an adhesive containing 1.0 percent by weight or more of any individual or combination HAP listed in Table 8 to this subpart or 1.0 percent by weight or more of any other individual HAP, according to information from the supplier or manufacturer of the material, EPA Method 311 (appendix A to 40 CFR part 63) or another approved alternative.

* * * * *

■ 14. Table 1 to subpart MMMMM is amended by revising entry 3 to read as follows:

TABLE 1 TO SUBPART MMMMM OF PART 63—EMISSION LIMITS

As stated in § 63.8790(a), you must comply with the emission limits in the following table:

For . . .	You must . . .
* * * * * * *	
3. Each existing flame lamination affected source	Emit no more than 1.45 pounds per hour of HCl per flame lamination line.

■ 15. Table 2 to subpart MMMMM is amended by revising the table title and introductory text to read as follows:

TABLE 2 TO SUBPART MMMMM OF PART 63—OPERATING LIMITS FOR EXISTING, NEW, OR RECONSTRUCTED FLAME LAMINATION AFFECTED SOURCES

As stated in § 63.8790(b), you must comply with the applicable operating limits in the following table:

* * * * *

■ 16. Table 3 to subpart MMMMM is revised to read as follows:

TABLE 3 TO SUBPART MMMMM OF PART 63—PERFORMANCE TEST REQUIREMENTS FOR EXISTING, NEW, OR RECONSTRUCTED FLAME LAMINATION AFFECTED SOURCES

As stated in § 63.8800, you must comply with the requirements for performance tests for flame lamination affected sources in the following table using the requirements in rows 1 through 5 of the table if you are measuring HCl and using a scrubber, row 6 for new or reconstructed sources measuring HCN and using a scrubber, and row 7 if you are using any other control device. For existing sources not using a control device, you must comply with row 8 and rows 1 through 4 of the table.

For each existing, new, or reconstructed flame lamination affected source, you must . . .	Using . . .	According to the following requirements . . .
1. Select sampling port's location and the number of traverse ports.	Method 1 or 1A in appendix A to part 60 of this chapter.	Sampling sites must be located at the inlet and outlet of the scrubber and prior to any releases to the atmosphere.
2. Determine velocity	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to part 60 of this chapter..	
3. Determine gas molecular weight	Not applicable	Assume a molecular weight of 29 (after moisture correction) for calculation purposes.
4. Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter..	
5. Measure HCl concentration	Method 26A in appendix A to part 60 of this chapter.	i. For new or reconstructed sources, determine the HCl reduction efficiency of the control device using Method 26A and the procedures specified in § 63.8800(e). ii. For existing sources, determine the HCl emission rate using Method 26A and the procedures specified in § 63.8800(f). iii. Collect scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) over the period of the performance test by computing the average of all 15-minute readings.
6. Measure HCN concentration	A method approved by the Administrator.	i. Conduct the performance test according to the site-specific test plan submitted according to § 63.7(c)(2)(i). Measure total HCN emissions and determine the reduction efficiency of the control device. Any performance test which measures HCN concentrations must be submitted for the administrator's approval prior to testing. You must use EPA Method 301 (40 CFR part 63, Appendix A) to validate your method.

TABLE 3 TO SUBPART MMMMM OF PART 63—PERFORMANCE TEST REQUIREMENTS FOR EXISTING, NEW, OR RECONSTRUCTED FLAME LAMINATION AFFECTED SOURCES—Continued

As stated in § 63.8800, you must comply with the requirements for performance tests for flame lamination affected sources in the following table using the requirements in rows 1 through 5 of the table if you are measuring HCl and using a scrubber, row 6 for new or reconstructed sources measuring HCN and using a scrubber, and row 7 if you are using any other control device. For existing sources not using a control device, you must comply with row 8 and rows 1 through 4 of the table.

For each existing, new, or reconstructed flame lamination affected source, you must . . .	Using . . .	According to the following requirements . . .
		ii. Collect scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate, scrubber effluent pH, and pressure drop (pressure drop data only required for venturi scrubbers) over the period of the performance test by computing the average of all 15-minute readings.
7. If you use any control device other than a scrubber, establish operating parameter limits with which you will demonstrate continuous compliance with the emission limit that applies to the source.	EPA-approved methods and data from the continuous parameter monitoring system.	i. Conduct the performance test according to the site-specific test plan submitted according to § 63.7(c)(2)(i).
		ii. For new or reconstructed sources, determine the HCl or HCN reduction efficiency of the control device using the EPA-approved method and the procedures specified in § 63.8800(e).
		iii. For existing sources, determine the HCl emission rate using the EPA-approved method and the procedures specified in § 63.8800(f).
		iv. Collect operating parameter data as specified in the site-specific test plan.
8. Measure HCl concentration	Method 26A in appendix A to part 60 of this chapter.	Determine the HCl emission rate using the appropriate test methods and the procedures specified in § 63.8800(f).

■ 17. Table 4 to subpart MMMMM is amended by adding entry 4 to read as follows:

TABLE 4 TO SUBPART MMMMM OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITS

* * * * * * *

For . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
* * * * * * *		
4. Each existing flame lamination affected source	Emit no more than 1.45 pounds per hour of HCl per flame lamination line.	The average HCl emissions, measured over the period of the performance test(s) do not exceed 1.45 pounds per hour per flame lamination line.

■ 18. Table 5 to subpart MMMMM is amended by revising entries 2 and 3 to read as follows:

TABLE 5 TO SUBPART MMMMM OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS AND OPERATING LIMITS

* * * * * * *

For . . .	For the following emission limits or operating limits . . .	You must demonstrate continuous compliance by . . .
* * * * * * *		
2. Each existing, new, or reconstructed flame lamination affected source using a scrubber.	* * *	* * *
3. Each existing, new, or reconstructed flame lamination affected source using any other control device.	* * *	* * *

■ 19. Table 6 to subpart MMMMM is amended by revising table introductory text and entry 4 and removing entry 5 to read as follows:

TABLE 6 TO SUBPART MMMMM OF PART 63—REQUIREMENTS FOR REPORTS

You must submit a compliance report that includes the information in § 63.8818(e) through (g) as well as the information in the following table, as applicable. Rows 1 and 3 of the following table apply to loop slitter affected sources. Rows 1 through 4 apply to flame lamination affected sources.

If . . .	Then you must submit a report or statement that . . .
* * * * * * *	
4. There were periods during which the operating parameter monitoring systems were out-of-control in information in accordance with the monitoring plan.	Contains the information in § 63.8818(f)(2).

■ 20. Table 7 to subpart MMMMM is revised to read as follows:

TABLE 7 TO SUBPART MMMMM OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM

As stated in § 63.8826, you must comply with the applicable General Provisions requirements according to the following table:

Citation	Requirement	Applies to subpart MMMMM	Explanation
§ 63.1	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are found in § 63.8830.
§ 63.3	Units and abbreviations	Yes.	
§ 63.4	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§ 63.5	Construction/reconstruction applicability; applications; approvals.	Yes.	
§ 63.6(a)	Compliance with standards and maintenance requirements-applicability.	Yes.	
§ 63.6(b)(1)–(4)	Compliance dates for new or reconstructed sources	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(b)(5)	Notification if commenced construction or reconstruction after proposal.	Yes.	
§ 63.6(b)(6)	[Reserved]	Yes.	
§ 63.6(b)(7)	Compliance dates for new or reconstructed area sources that become major.	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(c)(1)–(2)	Compliance dates for existing sources	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(c)(3)–(4)	[Reserved]	Yes.	
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	§ 63.8786 specifies compliance dates.
§ 63.6(d)	[Reserved]	Yes.	
§ 63.6(e)(1)(i)	General duty to minimize emissions	No	§ 63.8794(c) specifies general duty requirements.
§ 63.6(e)(1)(ii)	Requirement to correct malfunctions as soon as possible	No.	
§ 63.6(e)(1)(iii)	Enforceability of requirements independent of other regulations.	Yes.	
§ 63.6(e)(2)	[Reserved]	Yes.	
§ 63.6(e)(3)	SSM plans	No.	
§ 63.6(f)(1)	Compliance except during SSM	No.	
§ 63.6(f)(2)–(3)	Methods for determining compliance	Yes.	
§ 63.6(g)	Use of an alternative nonopacity emission standard	Yes.	
§ 63.6(h)	Compliance with opacity/visible emission standards	No	Subpart MMMMM does not specify opacity or visible emission standards.
§ 63.6(i)	Extension of compliance with emission standards	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance test dates	Yes	Except for loop slitter affected sources as specified in § 63.8798(a).
§ 63.7(a)(3)	Administrator's section 114 authority to require a performance test.	Yes.	
§ 63.7(b)	Notification of performance test and rescheduling	Yes.	
§ 63.7(c)	Quality assurance program and site-specific test plans	Yes.	
§ 63.7(d)	Performance testing facilities	Yes.	
§ 63.7(e)(1)	Conditions for conducting performance tests	No	Requirements for performance test conditions are found in § 63.8800(b) and (c).
§ 63.7(e)(2)–(3)	Performance test data reduction and number of test runs	Yes.	
§ 63.7(f)	Use of an alternative test method	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of performance tests	Yes.	
§ 63.8(a)(1)–(2)	Applicability of monitoring requirements	Yes	Unless otherwise specified, all of § 63.8 applies only to new or reconstructed flame lamination sources. Additional monitoring requirements for these sources are found in §§ 63.8794(f) and (g) and 63.8804.
§ 63.8(a)(3)	[Reserved]	Yes.	
§ 63.8(a)(4)	Monitoring with flares	No	Subpart MMMMM does not refer directly or indirectly to § 63.11.
§ 63.8(b)	Conduct of monitoring and procedures when there are multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)–(3)	Continuous monitoring system (CMS) operation and maintenance.	No	CMS requirements are found in § 63.8794(f) and (g).

TABLE 7 TO SUBPART MMMMM OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART MMMMM—Continued

As stated in § 63.8826, you must comply with the applicable General Provisions requirements according to the following table:

Citation	Requirement	Applies to subpart MMMMM	Explanation
§ 63.8(c)(4)	Continuous monitoring system requirements during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	Yes	Applies as modified by § 63.8794(g).
§ 63.8(c)(5)	Continuous opacity monitoring system (COMS) minimum procedures.	No	Subpart MMMMM does not have opacity or visible emission standards.
§ 63.8(c)(6)	Zero and high-level calibration checks	Yes	Applies as modified by § 63.8794(f).
§ 63.8(c)(7)–(8)	Out-of-control periods, including reporting	Yes.	
§ 63.8(d)–(e)	Quality control program and CMS performance evaluation	No	CMS requirements are found in § 63.8794(f) and (g).
§ 63.8(f)(1)–(5)	Use of an alternative monitoring method	Yes.	
§ 63.8(f)(6)	Alternative to relative accuracy test	No	Only applies to sources that use continuous emissions monitoring systems (CEMS).
§ 63.8(g)	Data reduction	Yes	Applies as modified by § 63.8794(g).
§ 63.9(a)	Notification requirements—applicability	Yes.	
§ 63.9(b)	Initial notifications	Yes	Except § 63.8816(c) requires new or reconstructed affected sources to submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification that a new source is subject to special compliance requirements.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of visible emissions/opacity test	No	Subpart MMMMM does not have opacity or visible emission standards.
§ 63.9(g)(1)	Additional CMS notifications—date of CMS performance evaluation.	Yes.	
§ 63.9(g)(2)	Use of COMS data	No	Subpart MMMMM does not require the use of COMS.
§ 63.9(g)(3)	Alternative to relative accuracy testing	No	Applies only to sources with CEMS.
§ 63.9(h)	Notification of compliance status	Yes.	
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in previous information	Yes.	
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in § 63.9(j).
§ 63.10(a)	Recordkeeping/reporting applicability	Yes.	
§ 63.10(b)(1)	General recordkeeping requirements	Yes	§§ 63.8820 and 63.8822 specify additional recordkeeping requirements.
§ 63.10(b)(2)(i) and (ii)	Records related to SSM periods and CMS	No	See § 63.8820 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)	Records of maintenance on air pollution control equipment..	Yes.	
§ 63.10(b)(2)(iv) and (v)	Records related to SSM	No.	
§ 63.10(b)(2)(vi)–(xi)	Records of CMS and other compliance records	Yes.	
§ 63.10(b)(2)(xii)	Records when under waiver	Yes.	
§ 63.10(b)(2)(xiii)	Records when using alternative to relative accuracy test	No	Applies only to sources with CEMS.
§ 63.10(b)(2)(xiv)	All documentation supporting initial notification and notification of compliance status.	Yes.	
§ 63.10(b)(3)	Recordkeeping requirements for applicability determinations.	Yes.	
§ 63.10(c)	Additional recordkeeping requirements for sources with CMS.	Yes	Applies as modified by § 63.8794(g).
§ 63.10(d)(1)	General reporting requirements	Yes	§ 63.8818 specifies additional reporting requirements.
§ 63.10(d)(2)	Performance test results	Yes.	
§ 63.10(d)(3)	Opacity or visible emissions observations	No	Subpart MMMMM does not specify opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports for sources with compliance extensions	Yes.	
§ 63.10(d)(5)	SSM reports	No.	
§ 63.10(e)(1)	Additional CMS reports—general	Yes	Applies as modified by § 63.8794(g).
§ 63.10(e)(2)(i)	Results of CMS performance evaluations	Yes	Applies as modified by § 63.8794(g).
§ 63.10(e)(2)	Results of continuous opacity monitoring systems performance evaluations.	No	Subpart MMMMM does require the use of COMS.
§ 63.10(e)(3)	Excess emissions/CMS performance reports	Yes	Only applies to new or reconstructed flame lamination affected sources.
§ 63.10(e)(4)	Continuous opacity monitoring system data reports	No	Subpart MMMMM does not require the use of COMS.
§ 63.10(f)	Recordkeeping/reporting waiver	Yes.	
§ 63.11	Control device requirements—applicability	No	Facilities subject to subpart MMMMM do not use flares as control devices.
§ 63.12	State authority and delegations	Yes	§ 63.8828 lists those sections of subparts MMMMM and A that are not delegated.
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by reference	Yes	Subpart MMMMM does not incorporate any material by reference.
§ 63.15	Availability of information/confidentiality.	Yes.	

■ 21. Table 8 to Subpart MMMMM of Part 63 is added to read as follows:

TABLE 8 TO SUBPART MMMMM OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY WEIGHT

Chemical name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3′-Dichlorobenzidine	91–94–1
3,3′-Dimethoxybenzidine	119–90–4
3,3′-Dimethylbenzidine	119–93–7
4,4′-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3
DDE	3547–04–4
Dichloroethyl ether	111–44–4
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5

TABLE 8 TO SUBPART MMMMM OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY WEIGHT—Continued

Chemical name	CAS No.
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

Subpart OOOOOO—National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources

■ 22. Section 63.11416 is amended by revising paragraphs (b) and (f) to read as follows:

§ 63.11416 What are the standards for new and existing sources?

* * * * *

(b) If you own or operate a new or existing slabstock polyurethane foam production affected source, you must not use any material containing methylene chloride for any purpose in any slabstock flexible foam production process.

* * * * *

(f) You may demonstrate compliance with the requirements in paragraphs (b) through (e) of this section using adhesive usage records, Material Safety Data Sheets, and engineering calculations.

■ 23. Section 63.11417 is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Removing and reserving paragraph (b)(1); and

■ c. Revising paragraph (b)(2) to read as follows:

§ 63.11417 What are the compliance requirements for new and existing sources?

* * * * *

(b) Each owner or operator of a new or existing slabstock flexible polyurethane foam production affected source must comply with paragraphs (b)(2) and (3) of this section.

(1) [Reserved]

(2) You must submit a notification of compliance status report no later than 180 days after your compliance date. The report must contain this certification of compliance, signed by a responsible official, for the standards in § 63.11416(b): ''This facility uses no material containing methylene chloride for any purpose on any slabstock flexible foam process.''

* * * * *

■ 24. Section 63.11418 is revised to read as follows:

§ 63.11418 What General Provisions apply to this subpart?

The provisions in 40 CFR part 63, subpart A, do not apply to sources subject to this subpart.

■ 25. Remove Table 1 to Subpart OOOOOO of Part 63—Applicability of General Provisions to Subpart OOOOOO.

[FR Doc. 2021–24019 Filed 11–17–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 37, 38, 39, 42, 43, 44, 46, 47, 49, 52, and 53

[FAC 2022–01; FAR Case 2018–018; Item I; Docket No. FAR–2018–0018, Sequence No. 1]

RIN 9000–AN76

Federal Acquisition Regulation: Revision of Definition of ''Commercial Item''; Correction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; correction.

SUMMARY: DoD, GSA, and NASA published a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 to change the definition of ''commercial item.'' This document corrects an erroneous weblink in that rule.

DATES: Effective December 6, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 or by email at *zenaida.delgado@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–01, FAR Case 2018–018.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA are correcting an erroneous weblink under the Background section of the rule.

In FR Doc. 2021–22144 appearing on pages 61017–61038 in the issue of November 4, 2021, make the following correction:

I. Background [Corrected]

1. On page 61017, in the second column, correct the weblink ''*https://section809panel.org/wp-content/uploads/2018/04/Sec809Panel_Vol1-Report_Jan18_REVISED_2018-03-14.pdf*'' to read ''*https://discover.dtic.mil/wp-content/uploads/809-Panel-2019/Volume1/Sec809Panel_Vol1-Report_Jan2018.pdf.*''

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2021–25028 Filed 11–17–21; 8:45 am]

BILLING CODE 6820–EP–P