EPA-APPROVED DELAWARE SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Additional explanation
* *	*	*	*	* *
Calpine Mid-Atlantic Generation, LLC—Christiana Energy Center.	AQM–003/00317 (Renewal 5).	12/19/2023	October 22, 2024 [INSERT **FEDERAL REGISTER** CITATION].	Approved via Docket EPA–R03–OAR–2023–0301, as an element of Delaware's August 8, 2022, Regional Haze Plan from 2018–2028 and March 7, 2024, supplement.
Calpine Mid-Atlantic Generation, LLC—Delaware City Energy Center.	AQM–003/00005 (Renewal 5).	12/19/2023	October 22, 2024 [INSERT **FEDERAL REGISTER** CITATION].	Approved via Docket EPA–R03–OAR–2023–0301, as an element of Delaware's August 8, 2022, Regional Haze Plan from 2018–2028 and March 7, 2024, supplement.
Calpine Mid-Atlantic Generation, LLC—West Energy Center.	AQM–003/00006 (Renewal 5).	12/19/2023	October 22, 2024 [INSERT **FEDERAL REGISTER** CITATION].	Approved via Docket EPA–R03–OAR–2023–0301, as an element of Delaware's August 8, 2022, Regional Haze Plan from 2018–2028 and March 7, 2024, supplement.

* * * * * (e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *	*	*	*
Regional Haze Plan from 2018–2028.	State-wide	8/8/2022	October 22, 2024 [INSERT **Federal Register** CITATION].	

[FR Doc. 2024–24196 Filed 10–21–24; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2023–0406; FRL–10652–02–OAR]

RIN 2060–AV97

Removal of Affirmative Defense Provisions From the National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production Facility and Natural Gas Transmission and Storage Facility Source Categories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing amendments to the National Emission Standards for Hazardous Air Pollutants for the oil and gas industry issued under the Clean Air Act (CAA). Specifically, the EPA is finalizing removal of the affirmative defense provisions in the National Emission Standards for Hazardous Air Pollutants for both the Oil and Natural Gas Production source category and the Natural Gas Transmission and Storage source category.

DATES: This final rule is effective October 22, 2024.

ADDRESSES: The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2023–0406. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only as pdf versions that can only be accessed on the EPA computers in the docket office reading room. Certain databases and physical items cannot be downloaded from the docket but may be requested by contacting the docket office at 202–566–1744. The docket office has up to 10 business days to respond to these requests. With the exception of such material, publicly available docket materials are available electronically at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Matthew Witosky, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–2865; email address: *witosky.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

I. General Information

A. Does this action apply to me?

Categories and entities potentially regulated by this action are shown in table 1 of this preamble.

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

Source category	NAICS [1]	NAICS code
Industry	211111	Crude Petroleum and Natural Gas Extraction.
	211112	Natural Gas Liquid Extraction.
	221210	Natural Gas Distribution.
	486110	Pipeline Distribution of Crude Oil.
	486210	Pipeline Transportation of Natural Gas.
Federal Government		Not affected.
State/Local/Tribal Government		Not affected.

[1] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in the regulations. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

In addition to being available in the docket, at Docket ID No. EPA–HQ–OAR–2023–0406 located at *https://www.regulations.gov/,* an electronic copy of this final rulemaking is available on the internet at *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-operations.* Following signature by the EPA Administrator, the EPA will post a copy of this final rulemaking at this same website. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final rulemaking.

C. Judicial and Administrative Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final rulemaking is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by December 23, 2024. Under CAA section 307(b)(2), the requirements established by this final rulemaking 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 ''[o]nly 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 convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA 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 to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC West Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania.

II. Final Rule Summary

In a proposal published December 1, 2023 (88 FR 83889), the EPA proposed to remove the provisions of an affirmative defense to civil penalties in the National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production source category and the Natural Gas Transmission and Storage source category, 40 CFR 63.762(d) and 63.1272(d) in 40 CFR part 63, subparts HH and HHH, respectively. The EPA is finalizing removal of these affirmative defense provisions as proposed.

III. Rationale for the Final Rule

In 1998, the EPA promulgated National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production Facility and Natural Gas Transmission and Storage Facility Source Categories, 40 CFR part 63, subparts HH and HHH (64 FR 32610; June 17, 1999) (''Oil and Gas NESHAP''). In 2012, the EPA amended the Oil and Gas NESHAP (77 FR 49490; August 16, 2012). The 2012 amendments included provisions allowing owners and operators to assert an affirmative defense to civil penalties for violations caused by malfunctions. See 40 CFR 63.762 and 63.1672, *Id.* at 49569 and 49585. A malfunction is a sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner. See 40 CFR 63.2. As defined in 40 CFR part 63, subparts HH and HHH, ''affirmative defense'' means, ''in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.'' See 40 CFR 63.761 and 63.1271. The EPA established an affirmative defense to civil penalties in 40 CFR part 63, subparts HH and HHH in an effort to create a system that incorporates some flexibility, recognizing that there is a

tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source (77 FR 49508). Under these affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed.

In 2014, the United States Court of Appeals for the District of Columbia Circuit (the D.C. Circuit Court) vacated the affirmative defense in one of the EPA's CAA section 112 regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in the CAA section 112 rule establishing emission standards for portland cement kilns) (*NRDC*). Like the affirmative defense provisions in the Oil and Gas NESHAP, the affirmative defense at issue in *NRDC* similarly provided that civil penalties may be assessed only if violators ''fail to meet [their] burden of proving all of the requirements in the affirmative defense.'' 749 F.3d at 1062; see also 78 FR 10039, § 63.1344. The D.C. Circuit Court found that the EPA lacked authority to establish an affirmative defense for penalties in private civil suits brought under CAA section 304(a) and held that the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. 749 F.3d at 1063. Specifically, the D.C. Circuit Court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' *Id.* (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.'').[1]

In light of the *NRDC* decision, the EPA proposed and is now finalizing removal of the affirmative defense provisions from the Oil and Gas NESHAP which, like the rule at issue in the *NRDC* decision, is also a CAA section 112 rule. These provisions imply legal authority that the D.C. Circuit Court has stated that the EPA does not have.[2] As the EPA explained in the proposed rule, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate (88 FR 83889, 83891). Further, as the D.C. Circuit Court recognized, in a citizen enforcement action brought under CAA section 304(a), the courts have the discretion to consider any defense raised and determine whether penalties are appropriate. *NRDC,* 749 F.3d at 1064 (arguments that a violation was caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.[3]

IV. Response to Comments

EPA received one comment on the proposal. Below is a summary of the comment and the EPA response thereto.

Comment: The commenter requests that the EPA retain the affirmative defense provisions in the Oil and Gas NESHAP. The commenter first argues that the decision in *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014), which the EPA has identified as the basis of its proposed rule, does not compel the EPA to remove the affirmative defense at issue because the affirmative defense provision at issue in *NRDC* provided defense against civil penalties after liability has been established; the commenter claims that, in contrast, the affirmative defense in subparts HH and HHH provides for defense against liability, not civil penalties, and is therefore unaffected by the *NRDC* decision. The commenter argues that, to the extent the EPA is asserting that there is no distinction between an affirmative defense to liability and an affirmative defense to penalties at issue in NRDC, such a position is ''ill-considered'' and ''wholly unsupported.''

The commenter next argues that, even if the EPA were to remove the affirmative defense in these two NESHAP from judicial proceedings, the EPA should retain it in administrative enforcement matters. In support, the commenter first notes that the *NRDC* decision addressed only judicial proceedings and therefore does not compel the EPA to remove affirmative defense from administrative enforcement matters. Next, the commenter disputes the EPA's assertion that ''such an affirmative defense is not necessary,'' claiming that the defense ''provides an essential measure of flexibility to sources facing real challenges with malfunctions in their operations that are beyond their control.'' The commenter expresses concern that ''without the specificity provided by the regulation, the ability to raise these real-world practical challenges is left to the unspecified 'discretion' of EPA enforcement officials or the presiding officer (an EPA employee) in an administrative proceeding.'' The commenter claims the EPA recognized such an approach as lacking a formalized approach and regulatory clarity, citing the proposal preamble describing the EPA's position at the time it established the affirmative defense at issue (88 FR 83891). The commenter further claims that both the EPA and the courts have ''long understood that it is fundamentally unfair to penalize a source for unavoidable emissions,'' citing *Essex Chem. Corp.* v. *Ruckelshaus,* 486 F.2d 427, 433 (D.C. Cir. 1973).[4] The commenter argues that ''it would be unjust to penalize a source for emissions that were beyond its control as this neither serves the purposes of punishment nor deterrence.'' The commenter claims that the proposed rule ''provides no explanation as to why, after decades of finding an affirmative defense for emergency-related emissions to be necessary, justice no longer requires it.''

The commenter then notes the EPA's explanation in the proposed rule that the ''assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent'' but asks that the EPA reconsider. The commenter claims that the EPA's reasoning, which refers to CAA section

[1] The D.C. Circuit Court's reasoning in *NRDC* focuses on civil judicial actions. The D.C. Circuit Court noted that ''EPA's ability to determine whether penalties should be assessed for CAA violations extends only to administrative penalties, not to civil penalties imposed by a court.'' *Id.*

[2] EPA notes that in 2012, concurrent with the review of 40 CFR part 63, subparts HH and HHH, EPA promulgated New Source Performance Standards for Crude Oil and Natural Gas Facilities, 40 CFR part 60, subpart OOOO (''NSPS OOOO''), which also included an affirmative defense. See 77 FR 49557. In a subsequent rulemaking following the *NRDC* decision, the EPA removed the affirmative defense provision from NSPS OOOO. 79 FR 79018 (Dec. 31, 2014).

[3] Although the *NRDC* case does not address the EPA's authority to establish an affirmative defense to penalties that are available in administrative enforcement actions, we are not including such an affirmative defense in this rule because for the same reasons explained above, such an affirmative defense is not necessary. Moreover, assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent. *Cf.* CAA section 113(e) (requiring both the Administrator and the court to take specified criteria into account when assessing penalties).

[4] The case involved challenges to various aspects of an EPA regulation establishing new source performance standards for certain stationary source categories, including ''equal'' standards during normal operations and periods of startup, shutdown and malfunction. *Id.* The D.C. Circuit Court remanded the rule record to the EPA on the ''equal standard,'' noting that ''variant provisions appear necessary to preserve the reasonableness of the standards as a whole and that the record does not support the 'never to be exceeded' standard currently in force.'' *Id.*

113(e) specifying ''penalty assessment criteria'' for both the EPA and the courts to consider, as appropriate (88 FR 83891, footnote 3), is ''wrong and not sound policy.'' In support, the commenter reiterates its argument that ''[f]oremost, as noted above, the affirmative defenses at issue go to questions of liability, not civil penalties. Thus, whether the penalty criteria in CAA section 113(e) are the same or not is entirely beside the point in deciding whether an affirmative defense to liability should be retained.'' The commenter further argues that ''even if the affirmative defense here goes to the question of penalties, there is no principle of 'consistency' between judicial and administrative proceedings.'' The commenter cites CAA section 113(d) (''Administrative Assessment of Civile Penalties''), specifically section 113(d)(2)(B) which ''affords the EPA entirely separate authority to 'compromise, modify, or remit, with or without conditions, any administrative penalty,' '' as evidence that ''Congress did not envision, let alone require, that judicial and administrative proceedings 'should be consistent.' '' The comment faults the proposed rule for ''[giving] no consideration to the discretion provided under section 113(d), in particular the authority 113(d)(2)(B).'' The Commenter argues that ''by contrast, civil judicial proceedings are bound by the common rules of civil judicial procedure.''

Lastly, the commenter argues that there ''is [not] any EPA precedent to consider *only* factors listed in CAA section 113(e) when determining administrative penalties, as that would contradict EPA's current administrative penalty policies'' [*Emphasis added*]. The commenter cites to several EPA decisions and policies that the commenter claims did not rely on CAA section 113(e) criteria in determining administrative penalties. According to the commenter, ''EPA has used policies governing administrative penalties for decades without any consideration of CAA section 113(e) and it continues to do so today.'' The commenter argues that ''EPA's interpretation of how section 113(e) limits its own authority appears to be arbitrarily selective in this instance'' because ''the Proposed Rule does not consider these contradictory practices and gives no indication that EPA will now abandon these policies and guidance documents in administrative proceedings.''

Response: For the reasons explained below, none of the commenter's arguments justify retaining the affirmative defense provisions in the Oil and Gas NESHAP. The commenter's main argument is that the affirmative defense in the Oil and Gas NESHAP provides for a defense against *liability* and, as such, is unaffected by the *NRDC* decision that held unlawful an affirmative defense to *penalties* in private civil suits. However, the commenter's interpretation of the affirmative defense in the Oil and Gas NESHAP is clearly incorrect as it contradicts the clear language of the affirmative defense in these NESHAP at 40 CFR 63.762(d) and 63.1272(d), which specifically state that ''you may assert an affirmative defense *to a claim for civil penalties* for violations of such standards that are caused by malfunction as defined at 40 CFR 63.2. *Appropriate penalties* may be assessed if you fail to meet your burden of proving all of the requirements in the affirmative defense.'' [*Emphasis added*]. Furthermore, this is the same wording as the affirmative defense in *NRDC,*[5] and the commenter does not explain how it interprets the same wording differently. We therefore find this argument to be totally without merit.[6]

The EPA is also unpersuaded by the commenter's argument that the EPA should retain the affirmative defense in the Oil and Gas NESHAP in administrative cases even if not in judicial proceedings. The commenter claims that the EPA's view that ''assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent'' is based on CAA section 113(e) and therefore flawed. The commenter argues that CAA section 113(e), which requires both the Administrator and the courts to take specified criteria into consideration when assessing penalties, is ''entirely beside the point in deciding whether to retain the affirmative defense to liability'' that the commenter claims is in Oil and Gas NESHAP. However, as discussed above, the affirmative defense in the Oil and Gas NESHAP goes to penalty assessment; accordingly, the commenter's argument that CAA section 113(e) is not relevant is incorrect.

The EPA also disagrees with the commenter's argument that retaining the affirmative defense in administrative cases is necessary in light of CAA section 113(d), which the commenter claims leaves ''the ability to raise these real-world practical challenges . . . to the unspecified 'discretion' of EPA enforcement officials or the presiding officer (an EPA employee) in an administrative proceeding.'' But Congress already rejected this view; in enacting CAA section 113(d), Congress was clearly confident with entrusting the EPA with broad authority and discretion in assessing penalty. Further, as the EPA explained in the proposal preamble, ''if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate.'' 88 FR 83891. In any event, the commenter appears to be expressing a hypothetical concern, as the commenter has not claimed or provided any information indicating that the EPA prohibited or otherwise limited one's ability to raise ''real-world concerns'' in the penalty assessment stage during an administrative proceeding.

Lastly, contrary to the commenter's assertion, the EPA does not claim that *only* factors listed in CAA section 113(e) may be considered when determining administrative penalties, nor is there inconsistency between the EPA's interpretation of CAA section 113(e) (as explained in this rulemaking) and the EPA's long-standing policies and practices in penalty assessment. CAA section 113(e) makes clear that, in determining the amount of penalty, the EPA and the courts are not limited to consider only the factors enumerated in that section; they shall also consider ''*such other factors as justice may require.*'' Accordingly, to the extent that the EPA has focused on other factors, as the commenter claims, the EPA's action is in accordance with the CAA. For the same reason, the EPA rejects the commenter's accusation that the EPA has been determining administrative penalties ''without any consideration of CAA section 113(e);'' the commenter also offers no evidence that the EPA declined to consider the factors in CAA section 113(e).

For the reasons stated above, the EPA finds that the commenter has not justified retaining the affirmative defense in the Oil and Gas NESHAP.

[5] See 749 F.3d at 1062, which identifies 40 CFR 63.1344 at 78 FR 10039 as the affirmative defense at issue in *NRDC.* 40 CFR 63.1344, as promulgated in that 2013 rule, provided that ''[i]n response to an action to enforce the standards . . . you may assert an affirmative defense *to a claim for civil penalties* for violations of such standards that are caused by malfunction, as defined at 40 CFR 63.2. *Appropriate penalties* may be assessed if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.'' [*Emphasis added*].

[6] The commenter also claims that the EPA is incorrect *to the extent* it is asserting that there is no distinction between affirmative defense to liability and affirmative defense to penalties. The EPA did not make such assertion. The proposed rule does not address an affirmative defense to liability as that is not the regulatory provision at issue in this rulemaking.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

Sources subject to subparts HH and HHH under 40 CFR part 63, as amended in 1990, section 112.

B. What are the air quality impacts?

There are no air quality impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or state agencies to enforce standards.

C. What are the cost impacts?

There are no cost impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in the Oil and Gas NESHAP. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or state agencies to enforce standards. The EPA estimated a small administrative burden to report deviations from standards as a result of malfunctions that included the option for an owner or operator to offer an affirmative defense. The removal of the affirmative defense provisions does not affect that burden because sources will still be required to report malfunctions that result in a failure to meet the standards. Since the option to invoke an affirmative defense was voluntary, there may be a negligible cost savings for reporting malfunctions by removing these provisions.

D. What are the economic impacts?

There are no economic impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in the Oil and Gas NESHAP. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or state agencies to enforce standards. The EPA estimated a small administrative burden to report deviations from standards as a result of malfunctions that included the option for an owner or operator to offer an affirmative defense. The removal of the affirmative defense provisions does not affect that burden because sources will still be required to report malfunctions that could have resulted in a failure to meet the standards. Since the option to invoke an affirmative defense was voluntary, there may be a negligible cost savings for reporting malfunctions by removing these provisions.

E. What are the benefits?

There are no environmental benefits associated with this action. The affirmative defense provisions did not affect the stringency of the standards in the Oil and Gas NESHAP. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or state agencies to enforce standards.

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for review under Executive Order 12866.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0417. The removal of provisions for affirmative defense does not change any mandatory recordkeeping, reporting, or other activity previously established under prior final rules.

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. There are no economic impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards. 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 any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or Tribal governments or the private sector.

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. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA's Policy on Children's Health also does not apply.

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 and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on communities with environmental justice concerns.

The EPA believes that this action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This action does not change the underlying standards that have an impact on human health and the environment.

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

Michael S. Regan,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) amends Title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

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

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

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

Subpart HH—National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities

■ 2. Section 63.760 is amended by adding paragraph (i) to read as follows:

§ 63.760 Applicability and designation of affected source.

* * * * *

(i) Emissions standards in this subpart apply at all times.

§ 63.761 [Amended]

■ 3. Section 63.761 is amended by removing the definition ''Affirmative defense''.

§ 63.762 [Removed and Reserved]

■ 4. Section 63.762 is removed and reserved.

Subpart HHH—National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities

■ 5. Section 63.1270 is amended by adding paragraph (g) to read as follows.

§ 63.1270 Applicability and designation of affected source.

* * * * *

(g) Emissions standards in this subpart apply at all times.

§ 63.1271 [Amended]

■ 6. Section 63.1271 is amended by removing the definition ''Affirmative defense''.

§ 63.1272 [Removed and Reserved]

■ 7. Section 63.1272 is removed and reserved.

[FR Doc. 2024–24288 Filed 10–21–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 221206–0261]

RIN 0648–BN32

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2023–2024 Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to management measures in commercial groundfish fisheries. This action is intended to allow fishing vessels to access more abundant groundfish stocks while protecting rebuilding stocks.

DATES: This final rule is effective October 22, 2024.

ADDRESSES: *Electronic Access:* This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's website at *https://www.pcouncil.org/.*

FOR FURTHER INFORMATION CONTACT: Dr. Sean Matson, phone: 206–526–6187 or email: *sean.matson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish seaward of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for 2-year periods (biennia). NMFS published the final rule to implement harvest specifications and management measures for the 2023–2024 biennium for most species managed under the PCGFMP on December 16, 2022 (87 FR 77007). The management measures set at the start of the biennial harvest specifications cycle help the various sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal.

At its September 2024 meeting, the Council recommended an assortment of modifications that included corrections and adjustments, to commercial fixed gear trip limits and incidental catch limits, for limited entry (LE) and open access (OA) fisheries for the remainder of 2024. Stocks and complexes with recommended changes included the other fish complex south of 40°10′ N lat., minor nearshore rockfish south of 40°10′ N lat., and cabezon in California. Potential changes were analyzed and ultimately recommended after updated information regarding projected catch and attainment became available, as well as requests from industry.

Pacific Coast groundfish fisheries are managed using harvest specifications or limits (*e.g.,* overfishing limits,