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40 CFR Part 63

**National Emission Standards for
Hazardous Air Pollutants for Source
Categories: Gasoline Distribution Bulk
Terminals, Bulk Plants, and Pipeline
Facilities; and Gasoline Dispensing
Facilities; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2006-0406, FRL-8512-3]

RIN 2060-AM74

National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants for the facilities in the gasoline distribution (Stage I) area source category. We are promulgating these emission standards for hazardous air pollutants pursuant to Clean Air Act section 112(c)(3) and 112(d)(5). We are adding two regulations that address the facilities contained in this area source category. The first includes requirements for bulk distribution facilities, i.e., gasoline distribution bulk terminals, bulk plants, and pipeline facilities. The second includes requirements for loading of storage tanks at gasoline dispensing facilities. We are also incorporating by reference four test methods. This action also finalizes our decision not to regulate the above noted facilities under Clean Air Act section 112(c)(6).

DATES: These final rules are effective on January 10, 2008. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of January 10, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2006-0406. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, 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 either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744. The Air and Radiation Docket and Information Center's Web site is: *http://www.epa.gov/oar/docket.html*. The electronic mail (e-mail) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov*, the telephone number is (202) 566-1742, and the Fax number is (202) 566-9744.

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SUPPLEMENTARY INFORMATION:

Outline. The information presented in this preamble is organized as follows:

- I. General Information
 - A. Does this action apply to me?
 - B. Where can I get a copy of this document?
 - C. Judicial Review

- II. Background Information
- III. Summary of Final Rules and Changes Since Proposal
 - A. Applicability and Compliance Dates
 - B. Summary of Emission Limits and Management Practices
 - C. What are the testing and initial compliance requirements?
 - D. What are the notification, recordkeeping, and reporting requirements?
 - E. Summary of Major Changes Since Proposal
- IV. Additional Actions
 - A. Title V Permitting Requirements
 - B. Not Regulating This Source Category Under CAA Section 112(c)(6)
- V. Summary of Comments and Responses
 - A. Applicability
 - B. Selection of Regulatory Alternative
 - C. Bulk Terminals
 - D. Testing and Monitoring
 - E. Control Costs and Cost Analyses Performed
 - F. Notifications, Reporting, and Recordkeeping
- VI. Summary of Environmental, Energy, Cost, and Economic Impacts
 - A. What are the air impacts?
 - B. What are the cost impacts?
 - C. What are the economic impacts?
 - D. What are the non-air environmental and energy impacts?
- VII. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. Congressional Review Act

I. General Information

A. Does this action apply to me?

The regulated categories and entities affected by these final rules include:

Category	NAICS ^a	Examples of regulated entities
Industry	324110 493190 486910 424710 447110 447190	Operations at area sources that transfer and store gasoline, including bulk terminals, bulk plants, pipeline facilities, and gasoline dispensing facilities.
Federal/State/local/tribal governments.		

^a North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the national emission standards. To determine whether your facility will be affected by the national emission standards, you should examine the applicability criteria in these final rules. If you have any questions regarding the applicability of the national emission standards to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of these final rules is also available on the World Wide Web through the Technology Transfer Network (TTN). Following signature, a copy of these final rules will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of these final rules is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by March 10, 2008. Under section 307(b)(2) of the CAA, the requirements established by these final rules may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these 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 us 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. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania

Ave., NW., Washington, DC 20460, with a copy to both the persons(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

II. Background Information

On December 14, 1994 (59 FR 64303), we promulgated national emission standards for hazardous air pollutants (NESHAP) for major source facilities within the gasoline distribution source category (see 40 CFR part 63, subpart R (Major Source NESHAP)). The Major Source NESHAP imposed control requirements on sources within the source category that met the definition of major sources, e.g., a source that emits 10 tons per year or more of any individual hazardous air pollutant (HAP) or 25 tons per year or more of any combination of HAP. Gasoline vapors normally contain nine HAP: benzene, ethylbenzene, hexane, toluene, xylenes, isooctane, naphthalene, cumene, and methyl tert-butyl ether. Some gasoline distribution terminals and pipeline facilities were found to be major sources by themselves or to be located at major sources. Gasoline storage tanks at bulk terminals and pipeline breakout stations, loading racks at bulk terminals, vapor leaks from gasoline cargo tanks, and equipment components in gasoline service were emission sources that were regulated under the Major Source NESHAP. Area sources of HAP emissions within the source category (many bulk terminals and pipeline breakout stations and all pipeline pumping stations, bulk plants, and gasoline dispensing facilities (GDF) (service stations, convenience stores, and other retail outlets)) are not subject to the Major Source NESHAP.

Section 112(k)(3)(B) of the CAA requires EPA to identify at least 30 HAP which, as the result of emissions from area sources,¹ pose the greatest threat to public health in urban areas. Consistent with this provision, in 1999, in the Integrated Urban Air Toxics Strategy (Strategy), EPA identified the 30 HAP that pose the greatest potential health threat in urban areas, and these HAP are referred to as the “urban HAP.” See 64 FR 38706, 38715–716, July 19, 1999. Section 112(c)(3) requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to

regulation. EPA listed the source categories that account for 90 percent of the urban HAP emissions in the Strategy.²

CAA Section 112(d) standards include new and existing source maximum achievable control technology (MACT) standards, health threshold standards, and generally available control technology or management practices (GACT) standards for area sources. The standards that are the subject of these final rules are based on GACT pursuant to CAA section 112(d)(5).

Gasoline vapors contain two HAP (benzene and ethylene dichloride (EDC)) included among the 30 area source HAP listed under the Strategy. The gasoline distribution (Stage I) area source category was listed in the Strategy because the facilities in this category contributed approximately 36 percent of the national emissions of benzene and 2 percent of the EDC emissions from stationary area sources. We are adding two subparts to 40 CFR part 63 to address the benzene emissions from the facilities in this area source category. As explained in the proposed rule, EDC emissions are no longer emitted from facilities in this area source category as a result of the lead phase-down provisions of section 218 of the CAA. We received no comments on this matter; therefore, we are taking no further action regarding EDC emissions in this rulemaking.

III. Summary of Final Rules and Changes Since Proposal

This section summarizes the final rules and identifies and discusses changes since proposal. For changes that were made as a result of public comments, we have provided explanations of the changes and the rationale in the responses to comments in section V of this preamble.

A. Applicability and Compliance Dates

These final rules apply to any existing or new gasoline distribution facility that is an area source. 40 CFR part 63, subpart BBBBBB applies to bulk gasoline terminals, pipeline facilities, and bulk gasoline plants. 40 CFR part 63, subpart CCCCCC applies to GDF. The owner or operator of an existing area source must comply with all the requirements of these final rules by January 10, 2011. The owner or operator of a new area source must comply with these final rules by January 10, 2008 or upon initial startup, whichever is later.

¹ An area source is a stationary source of HAP emissions that is not a major source.

² Since its publication in the Integrated Urban Air Toxics Strategy in 1999, the area source category list has undergone several amendments.

B. Summary of Emission Limits and Management Practices

40 CFR part 63, subpart BBBBBB requires that area source bulk gasoline terminals and pipeline breakout stations³ that meet the applicability criteria in 40 CFR 63.11081 control emissions from large storage tanks (those at or above 20,000 gallons capacity) by using either specified floating roofs and seals or a closed vent system and control device to reduce emissions by 95 percent. Small storage tanks (those below 20,000 gallons capacity) must be covered.

40 CFR part 63, subpart BBBBBB also requires that cargo tank loading rack emissions located at bulk gasoline terminals with gasoline throughputs above 250,000 gallons per day be reduced to a level of 80 milligrams (mg), or less, per liter of gasoline loaded into cargo tanks. Those bulk terminals with gasoline throughputs below 250,000 gallons per day must use submerged filling for the loading of cargo tanks.

Additionally, bulk terminal owners or operators with gasoline throughputs above 250,000 gallons per day must not allow the loading of cargo tanks that do not have the appropriate vapor tightness testing documentation. Before loading at an affected bulk terminal, the owner or operator of a cargo tank must present documentation of passing the vapor tightness test to demonstrate, using EPA Reference Method 27, or equivalent, that they meet a maximum pressure or vacuum decay rate of 3 inches of water, or less, during a 5-minute test period.

At bulk plants, 40 CFR part 63, subpart BBBBBB requires the use of submerged filling of gasoline storage tanks and cargo tanks.

40 CFR part 63, subpart BBBBBB also requires the implementation of a monthly equipment leak inspection at bulk terminals, bulk plants, pipeline breakout stations, and pipeline pumping stations. The standards allow a sight, sound, and smell inspection of all equipment components in gasoline liquid or vapor service. In the final rule, all leaking equipment components must be repaired within a specified time period.

40 CFR part 63, subpart CCCCCC requires controls at GDF nationwide depending on the GDF's monthly gasoline throughput. All GDF must perform specified good management practices to check for and minimize evaporation of gasoline. All those GDF above 10,000 gallons per month throughput must also employ submerged filling of gasoline storage

tanks. The submerged filling requirement is met by either bottom filling the storage tank or by using a fill pipe to load the storage tank that extends to no more than 12 inches from the bottom of the storage tank for fill pipes installed on or before November 9, 2006, and no more than 6 inches from the bottom of the storage tank for fill pipes installed after November 9, 2006. Additionally, those GDF with a monthly throughput of 100,000 gallons, or more, must also use vapor balancing when filling their gasoline storage tanks.

Additionally, under the final rule, GDF that have tanks with a 250 gallon capacity or less, regardless of monthly throughput, are only required to perform the good management practices to check for and minimize evaporation of gasoline described in section 63.11116(a); these tanks are not required to comply with either the submerged fill or vapor balancing requirements of the final rule.

C. What are the testing and initial compliance requirements?

40 CFR part 63, subpart BBBBBB requires that control devices being used to reduce emissions from loading racks at bulk terminals be tested to demonstrate that they comply with the emission limit. Closed vent systems and control devices used to reduce emissions from storage tanks also have to be tested to demonstrate that they comply with the emission limit. Other options for demonstrating compliance with the rule include using recent performance tests or providing documentation that the devices are complying with enforceable State, local, or tribal rules or operating permits that contain requirements at least as stringent as this final rule.

Affected facilities that use control devices (vapor processors) to comply with the emission limits for storage tanks or loading racks at bulk terminals are required to monitor operating parameters to demonstrate continuous compliance with the emission limits. The monitored operating parameter values must be determined during a performance test or by engineering assessment. An operating parameter monitoring approach approved by the Administrator and included in an enforceable operating permit is allowed as an alternative.

Annual inspections of storage tank roofs and seals are required for bulk terminals and pipeline breakout stations. Such inspections must be conducted using either the procedures required in 40 CFR part 60, subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Storage

Vessels New Source Performance Standards (NSPS)) or the procedures required in 40 CFR part 63, subpart WW (National Emission Standards for Storage Vessels (Tanks)—Control Level 2).

In addition, each owner or operator of a bulk gasoline terminal is required to monitor the loading of gasoline into gasoline cargo tanks to limit the loading to vapor-tight gasoline cargo tanks. The owner or operator of each gasoline cargo tank loading at an affected bulk terminal is required to perform vapor tightness testing on each cargo tank to demonstrate compliance with the maximum allowable pressure and vacuum change of 3 inches of water, or less, in 5 minutes. Vapor tightness testing must be performed using EPA Reference Method 27. Railcar cargo tanks may also use the "Railcar Bubble Leak Test Procedures" specified in the rule.

40 CFR part 63, Subpart CCCCCC requires that the owner or operator of GDF meeting the applicability criteria for vapor balancing demonstrate initial compliance with this emission limit by conducting an initial performance test on the vapor balance system. The rule also contains other options for demonstrating compliance with this emission limit, such as using recent performance tests or providing documentation that the vapor balance systems are complying with enforceable State, local, or tribal rules or operating permits that contain requirements at least as stringent as this final rule.

Each owner or operator must also determine, at the time of installation and every 3 years thereafter, the leak rate and cracking pressure of pressure-vacuum vent valves installed on gasoline storage tanks and must conduct a static pressure test on gasoline storage tanks.

D. What are the notification, recordkeeping, and reporting requirements?

Affected sources that are subject to the control requirements under these final rules are required to submit four types of notifications or reports as set forth in the General Provisions: (1) Initial Notification; (2) Notification of Compliance Status; (3) periodic reports; and (4) other reports. The Initial Notification alerts the regulatory authority of applicability for existing sources or of construction for new sources. This notification also includes a statement as to whether the facility can achieve compliance by the required compliance date. The Notification of Compliance Status demonstrates that compliance has been achieved. This

³ See 40 CFR 63.11100 for the definitions of the specific facilities regulated under subpart BBBBBB.

notification contains the results of initial performance tests and a list of equipment subject to the standard. Periodic reports are required on a semi-annual basis. The semi-annual compliance report informs the regulatory authority of the results of required inspections or additional testing results. An excess emissions report, if applicable, must be submitted with the semi-annual compliance report and is required if excess emission events occur. Excess emission events include events such as the loading of a cargo tank that does not have documentation of vapor tightness testing, deviations from acceptable operating parameter values, or equipment leaks that are not repaired within the required time.

Other reports are also required under the General Provisions, generally on a one-time basis, for events such as a notification before a performance test or a storage vessel inspection. Reporting these events allows the regulatory authority the opportunity to have an observer present.

Reporting requirements for owners or operators of bulk plants and GDF are limited in most cases to the Initial Notification and the Notification of Compliance Status. Those bulk plants that are located in States that require the use of submerged fill would not be required to submit these notifications. The same is true for GDF located in States or counties that already require submerged fill or submerged fill plus vapor balancing.

Records required under these final rules must be kept for 5 years. These include records of cargo tank vapor tightness test certifications, records of storage tank and equipment component inspections, and records of monthly throughput.

E. Summary of Major Changes Since Proposal

As a result of the public comments received in response to the November 9, 2006 proposal, we have made several changes in the final rules for this source category. This section presents a summary of the major changes since proposal. Additional discussion of the details of the changes and the rationale for making these changes is presented in section V of this preamble.

As proposed, 40 CFR part 63, subpart BBBBBB applied to both bulk facilities nationwide and GDF in Urban 1 and Urban 2 areas. We also requested comment on whether to require vapor balancing at GDF in Urban 1 areas and provided rule text in the docket. In order to simplify the final rules, we have included the requirements for bulk

facilities in subpart BBBBBB and have included all requirements for GDF in a separate subpart (40 CFR part 63, subpart CCCCCC).

We have made some changes to the requirements for bulk facilities. Internal floating roof storage tanks at bulk terminals and pipeline breakout stations will not have to be equipped with secondary rim seals (as proposed) if they have vapor mounted primary seals. Also, we are clarifying that storage tanks below 20,000 gallons in capacity require a cover, and those at or above 20,000 gallons in capacity require the controls as proposed and mentioned above.

We have also made some changes to the requirements for loading racks at bulk terminals. We proposed a requirement that all bulk terminals meet an 80 mg per liter (mg/l) emission standard for loading racks. Based on comments received, however, the type of control required in the final rule depends on the daily gasoline throughput of the bulk terminal. Loading racks at bulk terminals with daily gasoline throughputs of less than 250,000 gallons are required to use submerged filling; those at or above a daily gasoline throughput of 250,000 gallons are required to meet the 80 mg/l standard.

Additionally, we requested comment and supporting information on alternative parameter monitoring approaches for vapor processors used to meet the 80 mg/l standard for bulk terminal loading racks. After consideration of the public comments, we have decided to include presence of flame monitoring (as was proposed) for thermal oxidizers, and vacuum level monitoring for carbon adsorbers, as alternatives for monitoring the performance of vapor processors. We also took comments and requested data on additional requirements for these alternative monitoring approaches. We have incorporated these additional periodic equipment and maintenance inspections of the vapor processor systems into the final rule.

No major changes since proposal have been made to the requirements for pipeline facilities or bulk plants.

For GDF (40 CFR part 63, subpart CCCCCC), we have incorporated changes to the submerged fill requirements and the vapor balance requirements on which we requested comments. The final rule contains specific requirements for GDF nationwide depending on the GDF's monthly gasoline throughput. All GDF, regardless of size, must implement management practices that will minimize vapor releases to the atmosphere. GDF with a monthly

gasoline throughput of 10,000 gallons or more must also use submerged fill when loading their storage tanks. In addition to the requirements described above, GDF with a monthly gasoline throughput of 100,000 gallons or more must use vapor balancing when loading the storage tank. Subpart CCCCCC also contains requirements applicable to gasoline cargo tanks.

IV. Additional Actions

In today's final rulemaking, we are also finalizing two additional actions that were announced at proposal. These final actions address title V permit requirements and our decision not to regulate the gasoline distribution (Stage I) area source category under CAA section 112(c)(6).

A. Title V Permitting Requirements

Section 502(a) of the CAA provides that EPA may exempt one or more area source categories from the requirements of title V if the Administrator finds that compliance with such requirements is "impracticable, infeasible, or unnecessarily burdensome" on such categories. EPA must determine whether to exempt an area source from title V at the time we issue the relevant CAA section 112 standard (40 CFR 70.3(b)(2)). In this action, we are finalizing the proposed exemption of gasoline distribution area sources from the requirement to apply for and obtain a title V permit as a result of being subject to these final rules. We justified this finding at proposal and did not receive any negative comments during the public comment period regarding this issue. In fact, we received two positive comments supporting the exemption. As a result, gasoline distribution area sources are not required to obtain title V permits because of being subject to these final rules. However, if such sources are otherwise required to obtain title V permits, e.g., due to being part of a major source defined under title V (40 CFR 70.2, 40 CFR 71.2, and 40 CFR 63.2), they must apply for and obtain title V permits. The applicability criteria for title V are in 40 CFR 70.3(a) and (b) and 40 CFR 71.3(a) and (b). We are adding additional regulatory text to this rule to clarify the above.

B. Not Regulating This Source Category Under CAA Section 112(c)(6)

On November 8, 2002 (67 FR 68124), the Gasoline Distribution (Stage I) Area Source category was added to the list of source categories for development of standards under CAA section 112(c)(6) toward the 90-percent requirement for polycyclic organic matter (POM). One

surrogate for POM is the sum of 16 polynuclear aromatic hydrocarbon compounds (16-PAH) measured in EPA Test Method 610. Naphthalene is the only 16-PAH estimated and reported in the 1990 inventory that is emitted from gasoline distribution facilities. As explained in the proposal preamble, we have revised the 1990 inventory of naphthalene from this source category downward based on additional data received. Based on that information, we have concluded that gasoline distribution facilities (area sources) contribute only 0.02 percent of the total 16-PAH (1.73 tons out of 8,051 tons) and are not needed to meet the 90-percent requirement for POM in CAA section 112(c)(6). This action finalizes our decision not to regulate this source category under CAA section 112(c)(6) since we fully justified this conclusion at proposal and did not receive any negative comments at proposal.

V. Summary of Comments and Responses

The gasoline distribution area source rules were proposed on November 9, 2006 (71 FR 66064). The 60-day public comment period ended on January 8, 2007, and we received 36 comment letters. Comments were received from industry representatives, trade associations, State and local air pollution control agencies, environmental groups, air pollution control device vendors, and private citizens. The final rules reflect our consideration of all of the comments received on the proposed action. This section summarizes the significant comments and those that resulted in changes in the final rules. Our responses to comments not specifically addressed in this preamble are presented in the Response to Comments Document, which is available in Docket No. EPA-HQ-OAR-2006-0406.

A. Applicability

1. Area Sources

Comment: One commenter questioned whether EPA intended the area source rules to apply to facilities that are major sources and that have GDF on site for refueling of their vehicles (fleet vehicle refueling centers). Another commenter stated that EPA should clarify that the proposed rule does not apply to gasoline distribution major sources.

Response: The gasoline distribution (Stage I) area source rules apply to those gasoline distribution facilities that qualify as area sources. Facilities that are major sources (emit ≥ 10 tons per year of one HAP or emit ≥ 25 tons per year of any combination of HAP) as a

result of their gasoline distribution activities, or as a result of any other activities, would not be subject to these final area source rules. We have clarified in the final rules that these rules only apply to area sources.

2. GACT Versus MACT Approach

Comment: One commenter stated that EPA's own interpretation of CAA section 112(d)(5) allowed it to set GACT standards "when the imposition of MACT is determined to be unreasonable," (60 FR 4948, 4953, January 25, 1995) and that because EPA did not offer any technological or economic reasons why MACT was unreasonable for this source category, the selection of GACT rather than MACT was arbitrary and capricious.

Response: EPA disagrees with the commenter's assertion. The commenter has taken the phrase cited above in a prior **Federal Register** notice out of context and erroneously asserts that EPA must first justify why it is not setting a MACT standard before it can issue a GACT standard for a particular area source category.

In the **Federal Register** notice cited above, EPA promulgated final rules limiting the discharge of chromium compound emissions from both major sources and area sources in the hard chromium electroplating, decorative chromium electroplating and chromium anodizing tanks source categories. In developing that rulemaking, we first established the MACT standards for the major sources in each source category. Once we determined the standards for major sources, which must be based on MACT, we then evaluated what the standards should be for area sources. At that time, EPA recognized that it had authority to issue GACT standards for area sources. In determining what was GACT for those area sources, EPA considered the standards it had just set for the major sources and evaluated the technical feasibility of imposing the major source requirements on the area sources.

Additionally, since EPA could consider cost in setting a GACT standard, EPA also evaluated whether the cost of imposing the major source standards on the area sources in those source categories would be reasonable. The statements in the prior **Federal Register** notice concerning CAA section 112(d)(5) were focused on the factual circumstances of that rule, which involved the simultaneous promulgation of major and area source standards. We did not, in that rulemaking, conduct a thorough analysis of the requirements for setting

a GACT standard under CAA section 112(d)(5).

As recognized in the **Federal Register** notice cited above, and in this final rule, Congress gave EPA explicit authority to issue alternative emission standards for area sources in section 112(d)(5) of the CAA. Specifically, CAA section 112(d)(5), which is entitled "Alternative standard for area sources," provides:

With respect *only* to categories and subcategories of area sources listed pursuant to subsection (c) of this section, the Administrator *may, in lieu of* the authorities provided in paragraph (2) and subsection (f) of this section, elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants. (*Emphasis added.*)

There are two critical aspects to CAA section 112(d)(5). First, CAA section 112(d)(5) applies only to those categories and subcategories of area sources listed pursuant to CAA section 112(c). The commenter does not dispute that EPA listed the Gasoline Distribution (Stage I) Area Source category pursuant to CAA section 112(c)(3). Second, CAA section 112(d)(5) provides that for area sources listed pursuant to CAA section 112(c), EPA "*may, in lieu of*" the authorities provided in CAA section 112(d)(2) and 112(f), elect to promulgate standards pursuant to CAA section 112(d)(5). CAA Section 112(d)(2) provides that emission standards established under that provision "require the maximum degree of reduction in emissions" of HAP (also known as MACT). CAA Section 112(d)(3), in turn, defines what constitutes the "maximum degree of reduction in emissions" for new and existing sources. See CAA section 112(d)(3).⁴ Webster's dictionary defines the phrase "in lieu of" to mean "in the place of" or "instead of." See Webster's II New Riverside University (1994). Thus, CAA section 112(d)(5) authorizes EPA to promulgate standards under CAA section 112(d)(5) that provide for the use of generally available control

⁴ Specifically, section 112(d)(3) sets the minimum degree of emission reduction that MACT standards must achieve, which is known as the MACT floor. For new sources, the degree of emission reduction shall not be less stringent than the emission control that is achieved in practice by the best-controlled similar source, and for existing sources, the degree of emission reduction shall not be less stringent than the average emission limitation achieved by the best-performing 12 percent of the existing sources for which the Administrator has emissions information. CAA section 112(d)(2) directs EPA to consider whether more stringent—so called beyond-the-floor limits—are technologically achievable considering, among other things, the cost of achieving the emission reduction.

technologies or management practices (GACT), *instead of* issuing MACT standards pursuant to CAA section 112(d)(2) and (d)(3). The statute does not set any condition precedent for issuing standards under section 112(d)(5) other than that the area source category or subcategory at issue must be one that EPA listed pursuant to CAA section 112(c), which is the case here.⁵

The commenter argues that EPA must provide a rationale for why issuing MACT standards for this area source category is “unreasonable” before it can issue GACT standards under CAA section 112(d)(5). The commenter is incorrect, however. Had Congress intended that EPA first conduct a MACT analysis for each area source category, and only if cost or some other reason made applying the MACT standard “unreasonable” for the category would EPA be able to issue a standard under CAA section 112(d)(5), Congress would have stated so expressly in CAA section 112(d)(5). Congress did not require EPA to conduct any MACT analysis, floor analysis, or beyond-the-floor analysis before the Agency could issue a CAA section 112(d)(5) standard. Rather, Congress authorized EPA to issue GACT standards for area source categories listed under CAA section 112(c)(3), and that is precisely what EPA has done in this rulemaking.

Although EPA has no obligation to justify why it is issuing a GACT standard for an area source category as opposed to a MACT standard, EPA must set a GACT standard that is consistent with the requirements of CAA section 112(d)(5) and have a reasoned basis for its GACT determination. In determining what constitutes GACT for a particular area source category, EPA evaluates the control technologies and management practices that reduce HAP emissions that are generally available for the area source category.⁶ The legislative history supporting CAA section 112(d)(5) provides that EPA may consider costs in determining what constitutes GACT for the area source category.⁷ EPA cannot

consider cost in setting MACT floors, pursuant to CAA section 112(d)(3). Area sources differ from major sources, which is why Congress permitted EPA to consider costs in setting GACT standards for area sources under CAA section 112(d)(5), but did not permit that consideration in setting MACT floors for major sources. This important dichotomy between CAA section 112(d)(3) and CAA section 112(d)(5) provides further evidence that Congress sought to do precisely what the title of CAA section 112(d)(5) states—provide EPA the authority to issue “[a]lternative standards for area sources.” EPA properly issued standards for this area source category under CAA section 112(d)(5), and as demonstrated below, EPA has a reasoned basis for each of its GACT determinations.

Finally, even accepting, for arguments sake, the commenter’s assertion that EPA must provide a rational basis for setting a GACT standard as opposed to a MACT standard, we did so in the proposed rule. In the proposal, we explained that we can and do consider costs and economic impacts in determining GACT. We also explained that the facilities in the source categories at issue here are already well controlled for the Urban HAP for which the source category was listed pursuant to CAA section 112(c)(3). We believe the consideration of costs and economic impacts is especially important for the well-controlled facilities in this area source category because, given current well-controlled levels, a MACT floor determination, where costs cannot be considered, could result in only marginal reductions in emissions at very high costs for modest incremental improvement in control for this area source category.

Comment: One commenter encouraged EPA to reevaluate GACT based on the cost-effectiveness of controls for volatile organic compounds (VOC) as a function of the source’s throughput instead of using the cost-effectiveness of controls for benzene. The commenter believes doing so would demonstrate that more stringent emission standards and monitoring requirements (similar to the MACT) are warranted for all but the smallest of facilities. The commenter pointed out that in 1980, when EPA developed the

Control Technique Guidelines (CTG) for VOC control in ozone non-attainment areas, \$2,000 per ton was considered reasonably available control technology (RACT). With inflation over the past 26 years, it should be in the range of \$6,000 per ton. According to the commenter, since benzene constitutes only about 1 percent of the VOC emissions, the cost-effectiveness of these controls for VOC will be about 100 times better. The commenter prefers applicability thresholds based on throughput, rather than geographical boundaries, as proposed. The commenter believes that the proposed GACT neglects consideration of the risk posed by individual sources to the local communities. The commenter also encouraged EPA to consider more stringent requirements for “new sources.”

Another commenter pointed out that, in addition to benzene exposure, VOC from gasoline fueling play a role in the formation of ground level ozone (smog). The commenter stated that EPA should consider the full scope of air pollution concerns that are affected by emissions from gasoline distribution and should design its Stage I regulations to maximize the amount of reductions achieved for both air toxics and ozone precursor emissions.

Response: We understand the commenters’ desires for achieving greater VOC emission reductions in this rulemaking. We agree that VOC emissions contribute to other air pollution concerns and appreciate the State and local agencies’ efforts in addressing these emissions through their regulatory programs. We also agree that an analysis of the impacts of this rule based strictly on the control of VOC would yield different cost-effectiveness values and potentially support requiring more stringent control technologies for these facilities. In fact, we did calculate VOC impacts during our analysis of the proposed and final regulatory alternatives and these values are presented in the supporting documentation. But, as explained in other sections of this preamble, the primary focus of these area source rules is fulfilling our obligations under CAA section 112(c)(3) for regulating stationary sources of benzene. While the controls finalized today will achieve reductions in both HAP and VOC emissions, we appropriately focused on the HAP cost-effectiveness values in determining what is GACT for facilities in this area source category.

Based on comments received, we have reconsidered the use of gasoline throughput for determining what is GACT for these facilities and have

⁵ CAA section 112(d)(5) also references CAA section 112(f). See CAA section 112(f)(5) (entitled “Area Sources” and providing that EPA is not required to conduct a review or promulgate standards under CAA section 112(f) for any area source category or subcategory listed pursuant to CAA section 112(c)(3) and for which an emission standard is issued pursuant to CAA section 112(d)(5)).

⁶ As explained above, in developing GACT for the area sources subject to this rule, EPA analyzed both the control technologies and management practices used by area sources in the category to reduce HAP and the control approaches employed by the major sources in this category to reduce HAP.

⁷ Additional information on the definition of “generally available control technology or management practices” (GACT) is found in the

Senate report on the 1990 amendments to the CAA (S. Rep. No. 101–228, 101st Cong. 1st session, 171–172). That report states that GACT is to encompass:

* * * Methods, practices, and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.

incorporated multiple throughputs into the final rules. The final rules require controls at affected facilities nationwide, thus, addressing the impacts of benzene emissions from this area source category regardless of geographical boundaries.

In the final rules we distinguish between new and existing sources for the submerged fill requirements applicable to bulk gasoline plants and GDF. See 40 CFR 63.11086, 40 CFR 63.11117, and 40 CFR 63.11118 for the specific requirements. Control requirements at the remaining facilities (bulk gasoline terminals, pipeline breakout stations, and pipeline pumping stations) apply equally to both new and existing sources.

3. Proposed Exemptions

Comment: One commenter stated that CAA section 112(d)(5) does not authorize EPA to base GACT decisions on whether it believes that control technologies are or are not cost-effective but, rather, intended EPA to consider "economic impacts." Therefore, EPA's decision not to require a control level of 35 mg/l for loading racks, 1-inch pressure drop testing for cargo tanks, and vapor balancing of storage tanks at bulk plants and GDF, based on cost-effectiveness rather than technological or economic impact issues, is unlawful.

Response: We disagree with the commenter's interpretation that CAA section 112(d)(5) does not authorize EPA to consider cost-effectiveness as well as economic impacts in determining what is GACT for the affected facilities in an area source category. The legislative history supporting CAA section 112(d)(5) provides that EPA may consider costs in determining what constitutes GACT for the area source category (see footnote 7). Area sources differ from major sources, which is why Congress permitted EPA to consider costs, including cost-effectiveness, in setting GACT standards for area sources under CAA section 112(d)(5), but did not permit that consideration in setting MACT floors for major sources. The commenter did not cite any specific language in the CAA that prevents us from considering cost-effectiveness as well as other economic impacts in determining the level of control that constitutes GACT for an area source category. We believe EPA properly considered cost-effectiveness in each of its GACT determinations for this area source category under CAA section 112(d)(5). See also *Husqvarna AB v. EPA*, 349 U.S. App. D.C. 118, 254 F.3d 195, 201 (DC Cir. 2001) (finding EPA's decision to consider costs on a per ton of emissions removed basis

reasonable because CAA section 213 did not mandate a specific method of cost analysis).

Comment: One commenter stated that because the CAA requires standards for all sources in a category, EPA's refusal to set standards for storage tanks with a capacity less than 20,000 gallons is unlawful. The commenter stated that EPA does not claim that no control technology is generally available for storage tanks with a capacity less than 20,000 gallons or provide any reason that they cannot employ the same technology that is used by larger storage tanks.

Response: In response to this comment, EPA reexamined its GACT determination for storage tanks with a capacity less than 20,000 gallons. As explained above, determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the facilities in the area source category. We also consider standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. We further consider the costs and economic impacts of available control technologies and management practices on that source category.

In the proposed and final rule, we distinguished storage tanks based on size and developed a 20,000 gallon capacity threshold. This size threshold is similar to the threshold used in several other standards that apply to storage tanks, including 40 CFR part 60, subpart Kb and the Gasoline Distribution Major Source NESHAP. As explained in the 1994 "Alternative Control Techniques Document: Volatile Organic Liquid Storage in Floating and Fixed Roof Tanks" (EPA-453/R-94-001), 20,000 gallons is generally considered to be the breakpoint between horizontal and vertical tanks. The document reports that most storage tanks below 20,000 gallons are horizontal rather than vertical and a large percentage of these tanks are also underground tanks.

In the final rule, we are requiring storage tanks with a capacity of 20,000 gallons or more to have floating roof and seal technologies. In response to this comment, we re-evaluated the application of these same controls on tanks with a capacity less than 20,000 gallons and determined that these control approaches do not represent GACT for tanks with a capacity less than 20,000 gallons. First, for horizontal tanks, which are generally tanks with a capacity below 20,000 gallons, the

floating roof technology is not technically feasible. Horizontal tanks do not have perpendicular sides; this precludes the application of floating roof technology to these tanks. Second, our analysis shows that the cost-effectiveness of requiring the application of floating roof technology to vertical storage tanks below the 20,000 gallon size is, at best, about \$8,000 per ton of HAP.

Instead, in the final rule, we are requiring that facilities using storage tanks with a capacity below 20,000 gallons follow certain management practices for controlling emissions. See 40 CFR 63.11087 for those specific requirements.

Comment: One commenter believes it is not necessary to regulate GDF that are already using submerged fill, especially when required by an enforceable State, local, or tribal rule or permit. The commenter believes that facilities already have safety, economic, and environmental reasons to minimize spills, clean them up quickly, and prevent gasoline from remaining in the environment; thus, according to the commenter, additional emission reductions achieved by including these management practices in the final rule might not be significant. The commenter recommends that EPA evaluate the potential for emission reductions achievable by requiring these management practices and, if minimal emission reductions would result, EPA could either entirely exclude tanks already equipped with a submerged fill system, or exclude tanks covered by a submerged fill requirement in an enforceable State, local, or tribal rule or permit. In either case, the commenter suggests that the provision in the proposed 40 CFR 63.11085(f) would become an exclusion in the proposed 40 CFR 63.11081.

Another commenter believes that GDF should be excluded from any and all proposed and final regulatory alternatives because most States/regions with unacceptable levels of VOC and HAP already require Stage I controls which include submerged filling of underground storage tanks. The commenter believes that including GDF in the applicability of the proposed rule will inordinately increase the amount of paperwork (requiring the submittal of Initial Notifications and Notification of Compliance Status to dozens of States and local agencies) with little to no environmental benefit. The commenter believes that GDF should be regulated at the State and local level as they are today.

Response: By suggesting that we should not set Federal emission

standards, the commenters ignore the language of the statute. The CAA requires that EPA set Federal emission standards under CAA section 112(d) for source categories listed under CAA section 112(c)(3), and that is precisely what we are doing here. GDF are affected facilities within the gasoline distribution (Stage I) area source category. These facilities formed part of the basis for listing this area source category; hence, EPA is promulgating rules regulating emissions from these facilities. As summarized in section III.B of this preamble, 40 CFR part 63, subpart CCCCCC requires controls at GDF nationwide depending on their monthly gasoline throughput. All GDF must employ certain management practices. GDF with monthly throughput of 10,000 gallons or more must use submerged fill when loading their storage tanks. GDF with a monthly throughput of 100,000 gallons or more must also install a vapor balance system. These controls are GACT for these facilities in this area source category.

We agree with the concept of reducing the reporting and recordkeeping burden on affected facilities. We have taken steps in the proposed and final rules to minimize these burdens by not requiring notifications or reports from facilities that are already operating in compliance with enforceable State, local, or tribal rules and permits that include requirements that are at least as stringent as those contained in these final rules.

Comment: Two commenters support exempting bulk plants and pipeline pumping facilities because emissions from pipeline pumping stations are insignificant and because the recordkeeping and reporting would represent a burden with no benefit. The commenters stated that if EPA does not agree to fully exempt bulk plants and pipeline pumping stations, at the very least, those facilities that do not have a storage tank or loading rack subject to controls should be exempted from the equipment leak requirements.

Response: As explained above, by suggesting that we should not set Federal emission standards for these facilities, the commenters ignore the language of the statute. The CAA requires that EPA set Federal emission standards under CAA section 112(d) for source categories listed under CAA section 112(c)(3), and that is precisely what we are doing here. Bulk plants and pipeline pumping stations are affected facilities within the Gasoline Distribution (Stage I) Area Source category. These facilities formed part of the basis for listing this area source

category; hence, EPA is promulgating rules regulating emissions from these facilities. As such, 40 CFR part 63, subpart BBBBBB includes requirements for controls at these facilities based on what EPA determined was GACT for each facility.

We have, however, taken steps to reduce the reporting and recordkeeping burden on these facilities. The requirement to submit a combined Initial Notification/Notification of Compliance Status is the only routine reporting requirement imposed on these facilities. No periodic reports are required as part of the equipment leak inspection program as long as leaks are repaired in a timely manner. We believe that the potential safety and environmental benefits of an equipment leak inspection program justify the minimal expense involved.

4. Nationwide Coverage Versus Urban Area Coverage for Standards

Comment: Several commenters stated that they were strongly opposed to EPA's intended approach to narrow the application of CAA section 112(d) area source rules to urban areas, while other commenters were opposed to broadening the applicability of the rules to all areas.

One commenter stated that because CAA section 112 does not authorize EPA to decline to set standards for any sources within a category of sources that it has listed pursuant to CAA section 112(c), the threshold for sources that are not in urban areas (as well as those below the proposed size applicability thresholds) would be unlawful.

One commenter stated that there is little justification apparent in the proposed rule for mandating submerged fill for loading of storage tanks in non-urban areas. The commenter claimed that to do so would result in additional costs to GDF, while achieving minimal reductions in emissions. The commenter stated that, as a matter of law, the Agency's discretion is limited to imposing area source controls to area sources located within urban areas.

One commenter believes that EPA should apply the rule in accordance with the expressed intent of Congress, which was to reduce "risks to public health in urban areas." Therefore, according to this commenter, the rule should apply only to facilities that are located in or near urban areas. The commenter also stated that health risk should be taken into account in evaluating cost-effectiveness, and risk-distance issues should be considered. The commenter provided an analysis of their recommended use of a risk-

distance look-up table to determine applicability of the rule.

Other commenters stated that regardless of whether residential populations are urban or rural, individuals living in close proximity to GDF are subjected to elevated exposures to HAP and, given the trend of building very high volume throughput GDF, the level of exposure is likely to remain high and even increase.

One commenter urged EPA to follow conventional approaches in determining the scope of controls, and, in so doing, apply proposed Regulatory Alternatives (RA) 2 and 3 to all counties nationwide. The commenter urges EPA in this rulemaking, and in future area source rulemakings, to apply area source standards uniformly in all counties nationwide, particularly in circumstances where the area source category is ubiquitous, as is the case with gasoline distribution.

Another commenter stressed that the impacts of emissions from gasoline distribution and dispensing facilities are localized and would be similar for most urban and rural areas. The commenter stated that the cost of controlling these facilities would be the same in rural or urban settings as well; therefore, because the costs and environmental impacts are the same, there does not appear to be any rationale for treating rural and urban facilities differently.

One commenter stated that the fact that some State and local agencies already regulate these sources does not relieve EPA of its obligation to reduce emissions under CAA section 112. According to another commenter, many State and local agencies cannot be more stringent than the Federal government. The commenter further stated that once a Federal rule is promulgated, some agencies must change their regulations to make them consistent with those of the Federal government, which could result in backsliding if the State or local rule was more stringent to begin with.

Two comments expressed opposition to limiting the geographic scope of the proposed regulatory alternatives to reduce the "overall cost of the rule."

Response: After consideration of all comments related to the issue of nationwide versus urban applicability of the proposed standards for submerged fill and vapor balancing at GDF (proposed RA 2 and 3), we believe a nationwide approach is appropriate given the facts and circumstances of this particular area source category. As suggested by commenters, the final rule requires GDFs nationwide to control HAP emissions, and those control requirements differ depending on the monthly throughput of the GDF, which

is a reasonable factor for distinguishing between GDF. As explained in other responses and sections of this preamble, the final rule requires all GDF, regardless of size, to implement certain management practices to reduce vapor evaporation. Additionally, GDF with a monthly throughput of 10,000 gallons or more must use submerged fill, while GDF with a monthly throughput of 100,000 gallons or more must install vapor balance systems.

As proposed, the rule would have only required controls at GDF located in Urban 1 and Urban 2 areas. Some commenters suggested further narrowing the applicability of the rule to GDF based on the health risks and distance to the population of individual facilities. However, facilities located in Urban 1 and Urban 2 areas were the basis for listing area source categories pursuant to section 112(c)(3) of the CAA. We are currently under court-ordered deadlines to complete issuing standards for all listed area source categories. Changing our focus would mean recreating an area source category list which may differ significantly from the current list, greatly hindering our effort to complete our obligation by the court-ordered deadlines. Therefore, we believe that revisiting the basis for listing the area source categories is inappropriate at this time. And, as further explained below, we believe the particular facts for this area source category indicate that GDF nationwide should implement controls based on their monthly gasoline throughput.

We believe that the CAA provides the Agency with the authority to regulate area sources nationwide. As explained in the Strategy and the proposed rule, we interpret these provisions as providing EPA authority to regulate listed area source categories on a nationwide basis. Indeed, in several other area source rules, EPA has exercised this discretion and issued rules of nationwide applicability, as it has done here. See, e.g., 72 FR 26 (January 3, 2007); 72 FR 2930 (January 23, 2007); 72 FR 38864 (July 16, 2007).

A rule of nationwide applicability is particularly appropriate here because control costs are not expected to differ in rural vs. urban settings, so the control's cost-effectiveness is the same, and economic impacts are equally distributed. In addition, after reviewing the public comments and the additional analyses presented in support of those comments, we determined that the controls discussed above are commercially available as they are being used by many bulk facilities and GDF, and they are cost-effective (considering

the source type and size thresholds noted above) for bulk facilities and GDF.

Therefore, consistent with CAA section 112(d)(5), the final rule establishes standards that reflect the application of generally available control technology or management practices, and we properly considered cost-effectiveness and other economic impacts in determining what constitutes GACT for this area source category.

The commenter also suggested that we should consider health risks in making our GACT determination for each facility. In the 1990 CAA Amendments, Congress established a two-phase approach for setting HAP emission standards. *Sierra Club v. EPA*, 353 F.3d 976, 980 (DC Cir. 2004). The first phase is the initial standard setting phase, which is the phase at issue in this rulemaking.⁸ In this phase, the standards are technology-based, and this is true regardless of whether we issue MACT standards under CAA section 112(d)(2) and (d)(3), or GACT standards under CAA section 112(d)(5).⁹ See Senate Report at 148 (1989); *Sierra Club v. EPA*, 353 F.3d at 980.

In this final rule, EPA is establishing emissions standards for this area source category under CAA section 112(d)(5), which authorizes EPA to set emissions standards based on GACT for a listed area source category. The legislative history describes GACT as "methods, practices, and techniques which are commercially available and appropriate for application by sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems." S. Rep. No. 101-228, at 171 (1989) (Senate Report). Consistent with the statute and the legislative history, in determining GACT, we evaluated the control technologies and management practices that reduce benzene emissions from the Gasoline Distribution (Stage I) Area Source category, and we assessed the costs of implementing such approaches. We did not consider health impacts or

⁸The second phase of standard setting involves a risk-based analysis. Specifically, CAA section 112(f)(2) requires EPA to determine—8 years after issuance of the initial MACT standard—whether residual risks remain that warrant more stringent standards than achieved through MACT. CAA section 112(f)(5) provides that the Agency shall not be required to conduct a residual risk for area sources for which EPA has issued a GACT standard.

⁹CAA section 112(d)(4) does provide, however, that with respect to pollutants for which the EPA Administrator has established a health threshold, EPA can consider such threshold in setting standards under CAA section 112(d). Benzene is a carcinogen and is, thus, not a pollutant for which the Administrator has established a health threshold, and, therefore, CAA section 112(d)(4) is not relevant to this category.

risks in determining GACT for the facilities in this area source category, as the commenter recommended, nor were we required by statute to do so. However, we note that health risk did play a role in this process in that the determination of which pollutants to regulate and from which categories was governed by the statutory requirement to regulate sources accounting for 90 percent or more of the 30 HAP that present the greatest health threat in urban areas.

Regarding the comment concerning whether State and local regulations may be more stringent than Federal regulations, we recognize that this could be an issue in a few States. As an initial matter, however, for the reasons described herein, we believe the record for this final rule fully supports the GACT determinations that we made for the affected facilities. A survey conducted by STAPPA-ALAPCO in 2002 showed that only two States, Idaho and South Dakota, were precluded from issuing State regulations more stringent than Federal rules. Twenty four other States have similar restrictions but include a variety of exceptions such as: (1) Pre-existing rules; (2) when significant benefits can be achieved; or (3) when the requirements are needed to meet State Implementation Plan (SIP) commitments. We believe that most States that have elected to implement standards more stringent than the GACT standards finalized today for the gasoline distribution (Stage I) area source category will be able to justify maintaining their standards based on VOC reduction benefits or ozone non-attainment requirements.

B. Selection of Regulatory Alternative

Comment: Two commenters recommended that if proposed RA 2 or RA 3 are considered, that the throughput volume of the GDF storage tanks be taken into consideration and explicitly expressed in the regulatory text. In the commenters' view, GDF should be re-defined to address commercial or commercial-like operations only. The commenters further asserted that facilities with storage tanks between 250 and 2,000 gallons that do not have high volume throughputs should not be regulated as the reduction in emissions will not be significant if the facility is filling the tanks only once or twice a year. One commenter stated that, using AP-42 emission factors, a rough estimate of the cost-effectiveness for a throughput of 1,000 gallons per year over the 15-year life of the tank is \$79,000 dollars per ton of VOC and \$1,100,000 dollars per ton of HAP.

Two of the commenters stated that if EPA adopts either proposed RA 2 or RA 3, it would pose unnecessary regulatory burdens, conflict with most State RACT requirements, and likely prove to be ineffective in controlling ozone-causing vapors. One commenter stated that if EPA adopts either proposed RA 2 or RA 3, the NESHAP should be limited to GDF with storage tanks of greater than 1,000 gallons capacity.

One commenter stated that, with very few exceptions, State/local RACT rules set tank capacity thresholds much higher than 250 gallons. In objecting to proposed RA 2 and 3, the commenters stated: (1) The 250 gallon NESHAP applicability threshold under proposed RA 2 and 3 for GDF is lower than all but two State RACT regulatory applicability thresholds; (2) establishing a NESHAP threshold lower than most RACT regulations will lead to confusion on the part of small owners of small tanks who would be subject to the NESHAP, but not the RACT requirements in most urban areas; (3) many manufacturing facilities operate numerous small-capacity gasoline dispensing units to fuel a variety of fire protection, maintenance, fleet and pool vehicles, as well as small non-road equipment such as forklifts, landscaping/mowing equipment, portable generators, and portable pumps. The commenter explained that these fueling operations should be exempt from the NESHAP because the proposed rule would conflict with State and local RACT requirements under SIP for the ozone National Ambient Air Quality Standards, and thus would require retrofits to the fueling areas.

Response: These commenters raise several issues related to the application of the proposed rule to GDF, and especially to small GDF. First, we believe that the preamble to the proposed rule is clear that EPA intended for the proposed rule to cover both public and private GDF. The types of storage tanks found at private refueling facilities are the same as those found at large and small retail GDF. Likewise, the potential for emissions and emission reductions and the control technology is the same.

Second, as proposed, the rule required submerged fill on storage tanks of greater than 250 gallons capacity. This threshold level for control was based on a review of applicable State and local rules and is believed to be consistent with existing requirements that cover a large portion of the country. For the final rule, we considered the comments above by analyzing the costs and cost-effectiveness at these small tanks. Under CAA section 112(d)(1), we

can distinguish among classes, types, and sizes of sources within a source category. We have finalized different requirements for the smallest of storage tanks because the HAP cost-effectiveness of submerged fill climbs significantly as the throughput of a tank becomes very small. If you assume a 250 gallon capacity tank is loaded once a week (1,000 gallons a month), which is an unusually high number of loadings, the resulting cost-effectiveness for submerged fill would be well above \$36,000 per ton of HAP reduced. Using the threshold in many State VOC rules for vapor balancing (10,000 gallons per month) the cost-effectiveness is \$12,000 per ton of HAP reduced. Therefore, we agree with the commenters' concern and the final rule distinguishes between GDF based on the monthly throughput of the facility. Specifically, we are adopting a facility-wide threshold that distinguishes between GDF with a monthly throughput of 10,000 gallons per month or more and those below this threshold. In addition, we are retaining from the proposal that submerged fill is not required for individual tanks with a 250-gallon capacity independent of monthly throughput. However, under the final rule, all GDF, including those with throughput less than 10,000 gallons per month and tanks with a 250-gallon capacity or less, are required to perform the management practices to minimize evaporation.

The submerged fill and management practices requirements reduce nationally 150 tons of HAP annually, including 5 tons of benzene emissions. The cost of both the submerged fill for larger GDF and management practices for all GDF is a capital cost of \$3 million nationally, but an annual cost credit of almost \$500,000 nationally because the value of the recovered gasoline (\$1.73 million) is higher than the annual control costs (\$1.26 million). In addition to establishing these monthly throughput levels, we have maintained the reduced requirements for notifications, reporting, and recordkeeping that were proposed for GDF.

Comment: Many commenters expressed their preference for proposed RA 3 and several offered recommendations on variations of the Stage I vapor balancing requirements for GDF. One commenter suggested an annual throughput threshold of 200,000 gallons for Stage I vapor balancing applicability. The commenter further suggested that this applicability threshold should be on a calendar year basis with onsite records of monthly throughput required for all GDF, even those below the 200,000 gallon

threshold. Two commenters stated that any requirement for Stage I vapor balancing should specify that, unless otherwise approved by the air pollution control agency having jurisdiction, only California Air Resources Board (CARB) certified Stage I vapor balancing equipment should be allowed at GDF.

One commenter recommended that Stage I vapor balancing be universally required within 2 years of adoption of 40 CFR part 63, subpart BBBBBB for tanks above a specified size and throughput and that all new GDF storage tanks and all new delivery trucks be equipped with Stage I vapor balancing equipment. Another commenter believes that all GDF (urban and rural) with throughputs greater than 10,000 gallons per month should be required to install and operate a vapor balance system.

Two other commenters expressed opposition to proposed RA 3 and stated that they believe that vapor balancing is not cost-effective and is substantially more difficult to implement than submerged fill. The commenters claim that proposed RA 3 would impose significant costs on GDF to achieve only marginal gains over submerged filling.

Two additional commenters stated that proposed RA 3 would cover a high percentage of above-ground tanks that are not easily retrofitted with Stage I vapor recovery. Specifically, the commenter stated that retrofitting small above-ground tanks with vapor recovery poses two practical difficulties. First, most small above-ground tanks were not designed with fittings that will accommodate a vapor recovery line. According to the commenter, for these tanks, vapor recovery retrofit would require either cutting and welding to install new fittings or tank replacement. Second, because the fittings in above-ground tanks are elevated above grade, any fuel that enters the vapor recovery line does not drain readily. The commenter noted that this would cause vapor blockage and ineffective vapor recovery. The commenter further indicated that many States do not approve vapor recovery systems for any above-ground tanks for this reason.

Response: After considering all of the comments, we have concluded that GDF vapor balancing at GDF is cost-effective and should be required for GDF with throughputs greater than or equal to 100,000 gallons per month. We have not made any significant changes since the proposal on how we implement the vapor balancing requirements. Also, we believe our unit costs are representative of the installed control costs.

As indicated by the proposal preamble and several commenters,

vapor balancing is required by many State and local agencies and is, therefore, already generally available and in widespread use. About 62 percent of the national volume of gasoline is vapor balanced at GDF.¹⁰ Given that most of these vapor balance systems were installed to control VOC instead of HAP (nearly 100 percent of gasoline vapor versus about 5 percent, respectively), we analyzed the HAP emissions reduction and costs for different sized GDF. We concluded that a monthly throughput could be developed to reasonably estimate the size of the GDF, thereby enabling us to better determine what is GACT for the different sizes of GDF. In our evaluation, some emission and cost parameters changed (HAP content and interest rate, see section VI of this preamble). We concluded from our cost and emission reduction analysis that when vapor balancing is applied to facilities with throughput levels above 100,000 gallons per month, the HAP cost-effectiveness is about \$3,700 per ton of HAP reduced as opposed to the cost-effectiveness of the 10,000 gallon per month threshold analyzed at proposal (about \$9,000 per ton). The national emission reductions and costs just for vapor balancing are about 2,600 tons of HAP reduced, at a capital cost of \$44 million and an annualized cost of \$9.3 million per year. In total, for all bulk facilities and all GDF requirements, the total national impacts of today's final rules are 4,900 tons of HAP reduced, at a capital cost of \$75 million. The annualized capital, operating and maintenance, and compliance costs are \$20 million; however, there is a \$26.5 million per year credit for the recovered gasoline, resulting in a total annualized cost credit of \$6.5 million per year for these final rules.

As described in the proposal preamble (71 FR 66073, November 9, 2006), we evaluated various vapor balancing requirements and selected an implementation approach for the proposed and final rules that included management practices rather than requiring each owner or operator to test the efficiency of installed vapor balance systems. We also proposed, and included in the final rules, that owners or operators may use other equipment configurations if they successfully demonstrate to the Administrator through performance testing, as

specified in the final rules, that their system is capable of reducing emissions from the loading of their storage tanks by 95 percent. We also allow owners or operators to demonstrate compliance with the requirements of the final rule by informing EPA that the facility has installed CARB or other State certified vapor balance systems. We do not, however, require that only CARB certified systems be allowed as suggested by the commenter. This approach of allowing owners or operators to demonstrate that their chosen vapor balance systems are effective is used by many State and local agencies and we believe that the added flexibility is beneficial, and, therefore, have not made implementation changes to what was proposed.

We believe that vapor balancing is GACT for these GDF. The technology of vapor balancing has been effectively applied to storage tanks at bulk plants (nearly all having above-ground tanks) and GDF for many years. The commenter who claimed that vapor balancing would be difficult or costly for many facilities, especially those with above-ground tanks, did not provide any supporting data or cost estimates, and we do not have any information that supports these claims. Our analysis of the cost of installing a vapor balance system was based on an average cost that included about \$2,000 in labor costs plus \$2,500 in capital costs, based on estimates obtained from the States of California and Texas. While it is possible that some facilities may incur costs greater than these, we believe that they represent the upper end of the range of "typical" costs for installing a vapor balance system. In fact, one State agency submitted a vendor's cost estimate of \$1,044 plus labor for a submerged fill and vapor balance system. Thus, we believe that not only is vapor balance technology available, but that the cost we analyzed is a reasonable estimate.

C. Bulk Terminals

1. Alternative To Comply With 40 CFR Part 63, Subpart WW

Comment: Two commenters stated that EPA should modify the rule to allow for facilities to comply with either NSPS subpart Kb¹¹ of 40 CFR part 60 or NESHAP subpart WW¹² of 40 CFR part 63 for both internal and external

floating roof tanks. In addition, the commenters stated that the rule language and Table 2 should be revised to allow for compliance with subpart WW in lieu of subpart Kb for those tanks subject to subpart Kb and to provide facilities the option to switch from subpart Kb to subpart WW. The commenters also suggested that the regulation should be clarified to reflect that a facility may choose to comply with subpart WW in lieu of subpart Kb for tanks subject to controls only under the proposed area source rule (with deck fitting controls waived if the tank is subject to controls only under the area source rule). The commenters explained that the ability to comply with either rule is important because subpart WW provides clarity in areas where subpart Kb is unclear. The commenters stated that these clarifications are particularly important with respect to ladder/guidepole combinations on internal floating roof tanks. According to the commenters, these devices are commonly used with internal floating roof tanks, yet were not addressed in prior rulemakings. The commenters claim that while subpart WW allows for an equivalency demonstration on the basis of emission factors and specifies test methods for determining emission factors, subpart Kb is unclear on equivalency demonstration.

Response: The final rule for these storage tanks was based on portions of 40 CFR part 60, subpart Kb, which applies to storage tanks installed after 1984. EPA determined that these requirements are GACT for the storage tanks in this area source category and have, therefore, included them in the final rule. Alternatively, the final rule allows affected facilities the option of complying with applicable provisions in 40 CFR part 63, subpart WW, as EPA believes these requirements are equivalent to the applicable provisions in subpart Kb. See Table 1 in 40 CFR part 63, subpart BBBB for the specific requirements from these subparts that storage tanks at bulk facilities must implement as GACT under this area source rule.

Additionally, recognizing that certain facilities may be simultaneously subject to 40 CFR part 60, subpart Kb and this area source rule, the final rule specifies that owners or operators of facilities that are subject to both subparts, and who are currently operating in compliance with all applicable requirements in subpart Kb, will be deemed in compliance with this area source rule.

However, we are not incorporating the commenter's recommendation that facilities subject to subpart Kb should instead be allowed to comply with 40

¹⁰ As reported at proposal, vapor balancing is already used at GDF in areas where about 68 percent of the gasoline is consumed. However, some smaller facilities are exempted from this requirement, thus, about 62 percent of the gasoline delivered to GDF is actually controlled with vapor balancing.

¹¹ 40 CFR part 60, subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Storage Vessels New Source Performance Standards (NSPS)).

¹² 40 CFR part 63, subpart WW, National Emission Standards for Storage Vessels (Tanks)—Control Level 2.

CFR part 63, subpart WW. We do not have the authority to allow owners or operators subject to standards under different CAA provisions (section 111 and section 112) to choose which regulations will apply to their facilities. Facilities must comply with all applicable regulations.

In addition, we disagree with the commenters claim that the requirements of 40 CFR part 60, subpart Kb are unclear. We believe, and industry agreed in the Storage Tank Emission Reduction Partnership Program agreement (65 FR 19891, April 13, 2000), that the subpart Kb wording of "no visible gap" means that the slotted guidepoles are required to be controlled.

2. Control of Guidepoles

Comment: One commenter recommended that the final rule require that rim seals and guidepoles be controlled on all external floating roof tanks (EFRT) and that no other deck fitting controls be required. The commenter presented emissions and emissions reduction estimates that they believe supports their position that EFRT guidepoles are the primary source of deck fitting emissions. In their example case of a tank equipped with a slotted guidepole, 99 percent of the potential emission reductions from the control of deck fittings are attributable to control of the slotted guidepole. The commenter also presented information to support their conclusion that the control of guidepoles is a cost-effective measure, whereas the control of other deck fittings is not cost-effective.

Response: We evaluated the commenter's recommendation, and the supporting materials they provided, and decided not to revise the final rule as requested. We believe that the commenter is correct that guidepoles are the largest single source of emissions from deck fittings, based on typical emission factors presented by the commenter, and that controls are available and required by many rules. Thus, we agree that they should be controlled under this rule. We also agree that, in most typical cases, the emissions from all other deck fittings are lower. However, we do not agree that all of the other deck fittings should be allowed to remain uncontrolled.

The primary reason for our position on the control of deck fittings is the difficulty in determining the point at which an "opening" in the deck becomes large enough to be a serious concern. For example, a loose-fitting cover on an access hatch may not be a significant source of emissions if the openings or gaps around the cover are small. However, if the same cover had

a gap twice as large, the emissions would be much greater and would probably warrant controls. The process of determining when a gap around a cover actually becomes equivalent to an opening in the deck would be very difficult, not only for facility personnel, but also for enforcement personnel.

Another factor that we considered in making the decision to require deck fitting controls is the variable nature of the emissions from EFRT. While the emission factors used to estimate emissions from EFRT are believed to provide reliable estimates for the typical tank, there may be case-by-case factors that have a significant impact on emissions. For example, the relative locations of two or more gaps or openings in the deck may lead to the "channeling" of air currents that significantly increase the emission rate. The position of a gap or opening relative to the prevailing wind direction (whether the opening is normally shielded or exposed) may also influence the emission rate.

As mentioned earlier, and for the reasons discussed above, we believe that the final rule should require control of all deck fittings. Because the cost of installing fitting controls on all deck fittings is low, and, as proposed, we are allowing up to 10 years for the installation of these controls so that the fittings can be installed at a time when the tank is out of service and appropriate service staff are on site, we believe that this requirement is reasonable.

D. Testing and Monitoring

1. Continuous Monitoring and CEMS on Vapor Processors

Comment: One commenter recommended that EPA consider allowing Continuous Parameter Monitoring Systems in cases where the facility owner or operator can demonstrate that the monitored parameter is sufficient to ensure compliance with the standards. The commenter stated that parameter monitoring is already in place at most, if not all, of these facilities in their State. Several other commenters support alternative monitoring options for vapor combustion and carbon adsorption units. The commenters claim that these alternatives, coupled with comprehensive annual inspections and adequate maintenance programs and the more frequent compliance testing requirements in the proposal, should be reasonable to assure compliance with the proposed emission limits. The commenters provided emissions testing data to support their claims that the

alternative monitoring options were an effective means of ensuring continuing compliance. They also provided specific recommendations on inspection and maintenance requirements that they believe should be included in the alternative monitoring option.

Response: We have reviewed the data provided by the commenters and believe that the alternative monitoring options will be acceptable for ensuring compliance with the final rule. The devices used to control gasoline vapors emitted from loading racks at bulk terminals are almost exclusively thermal systems or carbon adsorbers. Thermal systems achieve very high removal efficiencies in this source category because the vapor stream being controlled is extremely combustible. The data provided by the commenters show that as long as a pilot flame is present to ignite the vapors, these systems consistently achieve controlled emission levels far below the level required by the final rule. The performance of carbon adsorbers has, likewise, been shown by the commenter's data to remain sufficiently high when the system vacuum levels are maintained at the appropriate levels.

The commenters also recommended that numerous specific components of the control systems be inspected periodically (daily, for most items) and maintained as necessary as a means of assuring that the devices continue to perform as designed. Most of the commenter's recommendations have been incorporated into the final rule. The commenters did, however, recommend that the daily inspections occur during each "manned day of operation." We did not limit the inspections to manned days of operation, but require them for each day of operation. We believe that at least the routine daily inspections should be conducted during each day that the facility is in operation, regardless of whether the facility has operators on site, to assure continuous compliance. For those facilities with no on-site personnel, the owner or operator can choose not to use this alternative monitoring approach, they can choose to have someone visit the site daily, or they can install monitoring equipment necessary to record the specified parameters on a daily basis.

The proposed rule specified in 40 CFR 63.11092(d) that operation of the vapor processing system in a manner exceeding or going below the monitored operating parameter value constituted a violation of the emission standard for the applicable loading rack. As with the major source MACT standard for this source category, we continue to require

that operation of the system at times when specific monitored parameters exceed or go below the applicable monitored parameter value be reported as a violation of the emission standard. However, we did consider what the continuous compliance status should be if the additional (to parameter monitoring) periodic maintenance and inspection procedures reveal operational problems. The commenters stated that problems discovered during maintenance and inspections should trigger corrective actions, but should not be considered violations of the emission standard. Because we have no data to support a direct relationship between the maintenance and inspection procedures and the actual emission rates, we agree with the commenters and believe that the results of these procedures should be viewed as indicators of proper operation rather than violations of the emission standard.

To ensure that proper maintenance and inspection procedures are followed, we have included in the final rule a requirement that owners or operators prepare a monitoring and inspection plan. The plan must contain a description of each item to be included in the periodic inspections and must define the normal operation of each item. The plan must also specify conditions that would be considered malfunctions, describe the corrective actions to be taken to correct any malfunction, and define what the owner or operator considers to be a timely repair for each potential malfunction. For the timing of necessary corrective actions, we have used the corrective action timing from the recently proposed NESHAP for Iron and Steel Foundries (72 FR 52984, September 17, 2007). We are requiring that facilities initiate corrective action to determine the cause of a problem within 1 hour, initiate corrective action to fix the problem within 24 hours, and complete all corrective actions to fix the problem as soon as practicable (and as specified in the monitoring and inspection plan). Thus, problems discovered during inspections will be monitored and recorded by being subject to corrective actions according to a monitoring and inspection plan that the owner or operator is required to develop. Owners or operators will be required to maintain a record of all corrective actions and report them semi-annually.

We believe that, when combined with the periodic maintenance and inspection requirements, the monitoring for the presence of a flame in a thermal system and vacuum level in a carbon adsorber will provide adequate

assurance of continuing compliance with the final rule. We have, therefore, incorporated the commenter's recommended options for alternative parameter monitoring and periodic inspections (and associated corrective action) into the final rule.

2. Past Performance Tests

Comment: One commenter supports EPA's willingness to accept past performance tests, but requests that performance tests completed within the 5 previous years be accepted. Many States require permit updates on a 5-year cycle, so some facilities may have performance tests only every 5 years.

Response: When we proposed to accept performance tests conducted within the past 3 years, we considered that time period to be representative of typical permit cycles. After consideration of the commenter's request, we agree with the commenter that 5 years is a more typical permit cycle and we have revised the provision in the final rule to more accurately correspond to the typical 5-year cycle for most State permits. In the final rule, we specify that we will accept performance testing completed up to 5 years prior to submittal under 40 CFR 63.11092 rather than the 3 years that was proposed.

E. Control Costs and Cost Analyses Performed

1. Loading Racks

Comment: Two commenters stated that the costs of installing control devices at loading racks is significantly more than was estimated in EPA's cost analysis of the 80 mg/l control level. One of the commenters stated that there were currently about 20 small uncontrolled loading racks in use and submitted estimates of the costs to convert these uncontrolled loading racks to bottom loading and to add a vapor processor system. The commenter also stated that the HAP cost-effectiveness for converting these uncontrolled loading racks was very poor and suggested that a throughput threshold of 2 million barrels per year was justified based on HAP cost-effectiveness. Three commenters support the requirement of submerged fill for "small" bulk gasoline terminals rather than routing vapors from the loading rack to a vapor control device. The commenters claim that this level of control is appropriate because these smaller facilities are typically located in rural areas as designated by the urbanized area plus offset and urban cluster definition (40 CFR 63.761), and, as such, do not pose an unacceptable

health risk to urban areas. One of these commenters also presented data and concluded that the cost and cost-effectiveness of converting uncontrolled splash loading facilities to submerged, top-loading facilities was very reasonable.

Response: In the proposed rule, all bulk terminals would have been required to control loading rack emissions to 80 mg/l, or less, with a vapor processor. We reviewed both the cost data provided by the commenter and the data we used to develop the proposal and then considered the appropriateness of establishing a daily throughput for bulk terminals in the final rule. We have placed a memorandum documenting our analysis in the docket (Docket No. EPA-HQ-OAR-2006-0406).

Based on our review of the information provided by the commenter, and our analysis of their recommendation to include a daily throughput for bulk terminals required to meet the 80 mg/l loading rack standard, we have decided to revise the final rule. Because of the large capital investment required for installing these controls (over \$3 million per facility), the resulting HAP cost-effectiveness is greater than \$10,000 per ton for facilities with a gasoline throughput of less than 250,000 gallons per day. We are, therefore, including in the final rule a different requirement for those terminals with an average gasoline throughput less than 250,000 gallons per day (about 2 million barrels per year).

Specifically, we determined that GACT for these low throughput facilities is submerged fill systems for outgoing loads. We believe that both the initial capital investment and the HAP cost-effectiveness of this requirement are reasonable. The capital investment is about \$25,000 per facility and the annualized cost of the capital investment is about \$2,400. However, because the value of the recovered product is about \$75,700 per year, the net annualized cost of control is a credit of about \$73,000 per year. The resulting HAP cost-effectiveness is a credit of almost \$11,000 per ton. The requirement to use submerged fill will result in greater than 50 percent reduction in emissions compared to the splash fill base case. The impacts of controls on bulk terminals (submerged fill for terminals below 250,000 gallons per day throughput, 80 mg/l vapor processors terminals above 250,000 gallons per day, and leak testing of vapor recovery tank trucks loaded at terminal) in the final rule is a reduction of 190 tons of HAP per year at a capital

cost of \$500,000 and a cost credit of \$1.4 million in annualized cost (because of the value of the gasoline vapor recovered (about \$1.5 million)).

Although the commenters claim that these sources are located in rural areas, the decision to include this level of control for small bulk terminals was based on our re-analysis of the costs of control rather than on location. As was discussed in the response to an earlier comment, we believe that the development of area source standards that apply nationwide in all areas is appropriate given the facts and circumstances of this particular source category.

2. Internal Floating Roof Tanks

Comment: One commenter submitted facility data used to develop estimates of the cost, HAP reductions, and HAP cost-effectiveness of adding a secondary seal to internal floating roof tanks (IFRT) that have vapor mounted primary seals. The commenter provided capacity and throughput data for nine storage tanks. The commenter did not provide any specific recommendations for changes to the proposed rule, but stated that the cost-effectiveness for this control measure was very poor.

Response: As a result of our review of the data provided by the commenter, and a re-evaluation of the costs we estimated during the development of the proposal, we have decided to revise the final rule. In our examination of the impacts of storage tank controls prior to proposal, we combined the estimated impacts for IFRT and EFRT and considered the combined impacts. The impacts of the proposed rule, when all storage tank types are combined, were considered to be reasonable. However, the commenter is correct that the cost-effectiveness of adding secondary rim seals to an IFRT with an existing vapor mounted primary rim seal, when considered separately from the other tank types, is estimated to be greater than \$150,000 per ton of HAP reduced. The final rule will, therefore, require that IFRT have a primary seal but will not require a secondary seal.

F. Notifications, Reporting, and Recordkeeping

Comment: One commenter supported the proposal to waive the requirements for submission of Initial Notification and Notification of Compliance Status for bulk plants and GDF and suggests this waiver be expanded to include pipeline breakout stations and pipeline pumping stations.

The commenter also suggests that all facilities be allowed to submit reports only when there are deviations to report

rather than being required to submit semi-annual reports even if there are no deviations during the period. The commenter stated that if there were no deviations, there would be no report. The commenter noted that EPA wrote in the preamble to the proposed rule "there are approximately 1,800 pipeline breakout stations nationwide." The commenter points out that this would result in 3,600 new semi-annual reports to agencies each year, placing undue burden on facilities and agencies. The commenter suggested that, as an alternative, only terminals and bulk plants should be required to submit semi-annual reports. The commenter stated that the regulatory requirements proposed for pipeline breakout stations, pipeline pumping stations, and GDF are easily auditable (e.g., log of equipment leak inspections, installation of submerged fill) and should not require semi-annual reporting. The commenter also stated that EPA should clarify that delay of repair is allowed with proper documentation and that the Administrator's approval is not required.

Response: Our intent in not requiring the submission of Initial Notification and Notification of Compliance Status for bulk plants and GDF was to reduce the burden on small businesses. We also believe this provision is appropriate because of the relative ease with which an inspector can determine if these facilities are meeting either submerged fill or vapor balancing requirements of the rule. However, it is more difficult to determine compliance with the storage tank requirements and equipment leak inspection requirements for pipeline breakout stations and pipeline pumping stations. We believe that it is reasonable to require these larger facilities to submit notifications certifying their status. These facilities are also typically not small businesses, the commenter did not provide data to support their position, and the reporting burden is not expected to be a significant burden.

With regard to the commenter's position that only reports of deviations be required rather than semi-annual reporting, we agree that for some source types these reports may not be necessary. Thus, we have revised the periodic reporting requirements in the final rule to require that pipeline pumping stations and bulk plants must only submit, on a semi-annual basis, any occurrences of an equipment leak for which no repair attempt was made within 5 days or for which repair was not completed within 15 days after detection. If there are no such occurrences, no semi-annual report is required. However, the monthly

equipment leak inspections must be performed and a record of the inspections must be kept. We have made this revision because, other than monthly equipment leak inspections, the only control measure typically required at these facilities is the use of submerged fill at bulk plants. Because submerged fill equipment is not expected to deteriorate significantly over time and is not subject to operating variables that impact emissions, we do not believe that semi-annual reporting is necessary. Likewise, as the commenter pointed out, the monthly equipment leak requirements include the maintenance (recording of the inspection event) of an inspection log which is required to be readily accessible to an inspector. We also considered that there are a large number of these facilities and that a significant number of the semi-annual reports would only be reporting that no delays in repair occurred. Therefore, as long as the equipment leak inspections are performed and documented, and as long as there are no delays in needed repairs, we do not believe that any reporting is necessary.

We have not, however, changed the requirement for semi-annual reporting by bulk terminals and pipeline breakout stations because we view these reports as necessary to ensure that facilities operate and maintain their storage tanks (and loading racks at bulk terminals) according to the provisions of the rule.

Finally, in response to the commenter's suggestion, we have clarified in the final rule that Administrator approval is not necessary for a facility to utilize the delay of repair provisions in the rule. Instead, the facility must document why repair within 15 days was not feasible, and provide that explanation in its next semi-annual report. We would point out, however, that this requirement may be implemented by a delegated authority under 40 CFR 63.11099 and that the reasons for a delay in repairs must be properly documented and must be acceptable to the delegated authority. If the documentation is not acceptable to the delegated authority, the delay in repair may be considered a violation of the standards.

VI. Summary of Environmental, Energy, Cost, and Economic Impacts

As discussed earlier, gasoline distribution activities are carried out at several different types of facilities. These include bulk terminals, pipeline breakout stations, pipeline pumping stations, bulk plants, and GDF. Our analysis of the gasoline distribution industry led us to estimate that there

were approximately the following numbers of affected area sources incurring costs (and emission reductions) within each type of facility: 20 bulk terminals, 1,600 cargo tanks, 400 pipeline breakout stations, 1,800 pipeline pumping stations, 390 bulk plants, and 9,900 GDF. The following paragraphs present our estimates of the impacts that these final rules would have on these facilities.

A. What are the air impacts?

Nationwide, gasoline distribution facilities emit annually an estimated 475,000 tons of VOC and 22,800 tons of HAP (including 800 tons of benzene). As discussed earlier, gasoline no longer contains EDC so there are no longer any emissions of EDC from this source category. We estimate that, after the final rules are implemented, annual HAP emissions will be reduced by 4,900 tons, which includes 175 tons of benzene, from about 14,000 facilities. The final rules will also reduce VOC emissions by 103,000 tons per year, which represents about a 22 percent reduction in emissions of these pollutants, compared to the baseline. At proposal, we did a separate analysis of the impacts of the proposed Mobile Source Air Toxics Rule (MSAT), but since the MSAT rule is now final, it is considered as part of the baseline. Instead of the total HAP content of gasoline vapor, including 0.27 percent benzene (as used in our analysis at proposal), the MSAT rule will reduce it to about 0.17 percent. Also, we assume that MTBE will be completely phased out of the gasoline pool. The net effect is that the HAP content will be reduced from about 7.3 percent (estimated at proposal) to about 4.8 percent in gasoline vapor. Thus, all impact estimates reported in this notice reflect the impacts after full implementation of the MSAT rule and the elimination of MTBE in gasoline.

We project that any adverse air impacts associated with this rule will be insignificant. Using national data from all stationary benzene emission sources in the 1999 National Air Toxic Assessment (NATA) and ratioing them to the national benzene emissions from this source category, we approximate that this rule will reduce about 22 percent of the current benzene emissions from these sources, resulting in a reduction of incidences of cancer from benzene exposure by 0.08 cases per year. These cancer incidence reduction approximations are considered a very rough estimate because no exposure analysis was performed for this source category and the 1999 NATA data should be used

cautiously, as the overall quality and uncertainties of the NATA results will vary from location to location, as well as from pollutant to pollutant. In addition, EPA's Scientific Advisory Board has cautioned the Agency against using the results of the NATA assessment for regulatory purposes. Further information on the limitations of NATA is discussed at the following Web site: <http://www.epa.gov/ttn/atw/nata1999/index.html>.

B. What are the cost impacts?

The cost of implementing the final rules for gasoline distribution area source facilities would include the capital and annualized costs to control storage tanks, loading racks, equipment leaks, and cargo tanks, as well as the costs of complying with the testing, monitoring, reporting, and recordkeeping requirements. Since proposal we changed the interest rate used in our cost analysis to amortize the initial costs. The annualized cost estimates presented in the proposal are based on a 10 percent interest rate. As we reported in the proposed rule, cost documentation, the interest rate that the Agency uses for cost analyses such as these should have been 7 percent. We committed to correct that over-estimate in the final analyses. We have also corrected the cost analysis to incorporate the changes discussed in section III of this preamble and to incorporate the simplified monitoring, reporting, and recordkeeping requirement costs discussed in the proposal cost documentation. Thus, the cost analyses reported below and elsewhere in this notice includes these changes.

The final rules are estimated to result in capital expenditures of approximately \$75 million. The annualized cost of the capital expenditures is estimated to be about \$7.5 million. Annual operating and maintenance costs are estimated at about \$4.1 million. We have estimated the annual costs of testing, monitoring, reporting, and recordkeeping to be about \$8.4 million. Because of the value (\$26.5 million) of the product that is either recovered or prevented from evaporating, however, we estimate that the annualized cost of the final rules is a credit of about \$6.5 million.

C. What are the economic impacts?

These final rules affect area sources from pipeline transportation, bulk stations and terminals, local and long-haul trucking, and gasoline stations which make up the gasoline distribution industry. We performed an economic impact analysis with methodology

based on a single-market partial-equilibrium analysis of the national gasoline market. The analysis estimates changes in gasoline prices and outputs for affected sources under the control requirements in the final rules. The results of our analyses are stated below.

The compliance cost results in an insignificant increase in gasoline prices. This price increase is less than 1 cent per gallon (less than 0.001 percent).

Given these small increase in prices, the corresponding reductions in gasoline consumption are also minor. The estimated annual reduction is less than 3 million gallons per year.

The overall total annual surplus changes (social costs/gains), which reflect changes in consumer and producer behavior in response to the compliance costs of the final rule, is a net gain of \$6.5 million.

For more information, please refer to the Economic Impact Analysis report that is in the public docket for these rules.

D. What are the non-air environmental and energy impacts?

Water quality would not be affected by implementation of these rules. These final rules do not contain any requirements related to water discharges or wastewater collection, and no additional gasoline is expected to enter these areas as a result of these rules. We project that the implementation of the required management practices will result in a decrease in the release of gasoline to the environment, but we have not quantified this reduction.

We also project that there will be no significant solid waste impact. Neither thermal oxidizers nor condensers generate any solid waste as a by-product of their operation. When carbon adsorption systems are used, the spent activated carbon that cannot be further regenerated may be disposed of in a landfill, which would contribute a small amount of solid waste.

The control devices used to control emissions from loading racks and some storage tanks use electric motor-driven blowers, dampers, or pumps, depending on the type of system, in addition to electronic control and monitoring systems. The installation of these devices would have a small negative energy impact. We believe, however, that there will be very few, if any, new installations of these control devices as a result of these rules. Also, because the liquid being controlled by these systems is gasoline, and some of the applied control measures would keep this fuel in the distribution system, they would have a positive impact on this form of energy. We estimate that these rules

would prevent a total of approximately 35 million gallons of gasoline from being lost to evaporation annually.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a “significant regulatory action.” The Executive Order defines “significant regulatory action” as one that is likely to result in a rule that may “raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.” Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in these final rules have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA and has been assigned EPA ICR number 2237.02. A copy may be obtained from Susan Auby, Collection Strategies Division (2822T), EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, or by calling (202) 566-1672. A copy may also be downloaded from the public docket for this action (Docket ID number EPA-HQ-OAR-2006-0406), which can be found in <http://www.regulations.gov>. The information collection requirements are not enforceable until OMB approves them.

The information to be collected for the final area source rules are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions in 40 CFR part 63, subpart A, which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

These final rules require performance testing of control devices used to control emissions from loading racks at bulk terminals and from some storage tanks

at bulk terminals and pipeline breakout stations. They also require annual inspections of storage tanks at bulk terminals and pipeline breakout stations and collection of cargo tank vapor tightness documentation by bulk terminals. In addition, the rules require periodic pressure testing of vapor balance equipment at GDF. Finally, monthly equipment leak inspections at bulk terminals, pipeline breakout stations, pipeline pumping stations, and bulk plants are required. These final rules do not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance. We have taken steps to minimize the reporting and recordkeeping requirements for the smaller facilities (bulk plants and GDF) that are affected by these final rules.

The annual monitoring, reporting, and recordkeeping burden to affected sources for this collection (averaged over the first three years after the effective date of the promulgated rule) is estimated to be about 129,700 labor hours per year, with a total annual cost of \$8.4 million per year. Most of this burden will be spread over approximately 14,000 facilities that will be required to keep records and file reports. Of this total burden, however, about 68,500 labor hours (and \$4.5 million) will be incurred by about 4,200 of the larger, bulk distribution facilities. Depending on the facility type, these estimates include two one-time notifications, a one-time performance test and report for control devices, periodic equipment inspections, and semi-annual compliance reporting. We did not receive any comments on the proposed ICR, therefore, the ICR has only been updated to reflect any changes in affected sources and reporting and recordkeeping discussed earlier in this notice. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions as well as the time to develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

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 EPA’s regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in these final rules.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of these final rules on small entities, small entity is defined as: (1) A small business whose parent company has less than \$25 million in revenue (NAICS 447110, Gasoline Stations with Convenience Stores), less than \$23.5 million in revenue (NAICS 484220 and 484230, Hazardous Materials Trucking [except waste], local and long-distance), and less than \$8.0 million in revenue (NAICS 447190, Other Gasoline Stations), and fewer than 100 employees (NAICS 424710, Petroleum Bulk Stations and Terminals), and 1,500 employees (NAICS 486910, Pipeline Transportation of Refined Petroleum Products) based on Small Business Administration size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Under these definitions, approximately 60,000 gasoline distribution firms are considered small entities. For more information, refer to <http://www.sba.gov/size/sizetable2002.html>. The economic impacts of the regulatory alternatives are analyzed based on the consumption of gasoline. However, for the small business impact analysis, these impacts are described in terms of comparing the compliance costs to sales

revenues for representative entities. For more detail, see the current Economic Impact Analysis in the public docket.

After considering the economic impacts of these final rules on small entities, I certify that the final rules will not have a significant economic impact on a substantial number of small entities. This certification is based on the economic impact of the final rules to affected small entities in the entire gasoline distribution industry. The small entities directly regulated by these final rules are industries within the NAICS codes 424710, 447110, 447190, 484220, and 484230. We have determined that Pipeline Transportation of Refined Petroleum Products (NAICS 486910) does not contain any small business entities and, therefore, is not included in the small business impact analysis. For the regulatory alternatives analyzed, all gasoline distribution industry categories that contain small business entities are expected to have an average annual cost to sales ratio of less than one percent with cost impacts for all regulated small entities ranging from a cost savings to less than 0.61 percent of sales. In addition, no other adverse impacts are expected to occur to these affected small businesses.

For more information on the small entity economic impacts associated with the final decisions for gasoline distribution industries affected by this action, please refer to the Economic Impact and Small Business Analyses in the public docket.

Although these final rules will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of these final rules on small entities. When developing the standards, we took special steps to ensure that the burdens imposed on small entities were minimal. We conducted meetings with industry officials to discuss regulatory options and the corresponding burden on industry, such as recordkeeping and reporting.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million

or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Based on the cost and economic impact analyses discussed in sections VI.B and C, and the paperwork analysis in section VII.B of this preamble, EPA has determined that these final rules do not contain a Federal mandate that may result in expenditures of \$100 million or more to State, local, and tribal governments in the aggregate, or to the private sector in any one year. Thus, these final rules are not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined, for the same reason as above for all governments, that these final rules contain no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

These final rules do not have federalism implications. They 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, as specified in Executive Order 13132. These final rules impose requirements on owners and operators of specified area sources and not State and local governments. Thus, Executive Order 13132 does not apply to these final rules.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."

These final rules do not have tribal implications, as specified in Executive Order 13175. They 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. Thus, Executive Order 13175 does not apply to these final rules.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. These final rules are not subject to Executive Order 13045 because they are based on technology

performance and not on health or safety risks.

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

These final rules are not a “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that these final rules are not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113, 12(d), (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This rule involves technical standards. EPA has decided to use the following methods: EPA Methods 9, 21, 22, and 27 (40 CFR part 60, appendix A); American Society of Testing Materials (ASTM) Standard D 5228–92, “Standard Test Method for Determination of Butane Working Capacity of Activated Carbon”; CARB Vapor Recovery Test Procedure TP–201.1, “Volumetric Efficiency for Phase I Vapor Recovery Systems”; CARB Vapor Recovery Test Procedure TP–201.1E, “Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves”; and CARB Vapor Recovery Test Procedure TP–201.3, “Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities.”

The standard ASTM D 5228–92, “Standard Test Method for Determination of Butane Working Capacity of Activated Carbon,” is also a VCS. This standard will be incorporated by reference into 40 CFR 63.14.

Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these methods. No

applicable VCS were identified for EPA Methods 9, 21, 22, 27, ASTM D5228–92, or CARB methods TP–201.1, TP–201.1E, and TP–201.3. The search and review results are in the docket for this rule.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision 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 minority populations and low-income populations in the United States.

EPA has determined that these final rules will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because they increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. These final rules establish national standards.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these final rules and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final rules in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). These final rules will be effective on January 10, 2008.

List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Incorporations by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 20, 2007.

Stephen L. Johnson,
Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

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

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

■ 2. Section 63.14 is amended by adding new paragraphs (b)(63) and (l) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(63) ASTM D 5228–92—“Standard Test Method for Determination of Butane Working Capacity of Activated Carbon,” reapproved 2005, IBR approved for § 63.11092(b)(1)(i)(B)(1)(ii).

* * * * *

(l) The following materials are available from the California Air Resources Board, Engineering and Certification Branch, 1001 I Street, P.O. Box 2815, Sacramento, CA 95812–2815, Telephone (916) 327–0900 and are also available at the following Web site: <http://www.arb.ca.gov/vapor/vapor.htm>.

(1) California Air Resources Board Vapor Recovery Test Procedure TP–201.1—“Volumetric Efficiency for Phase I Vapor Recovery Systems,” adopted April 12, 1996, and amended February 1, 2001 and October 8, 2003, IBR approved for § 63.11120(b)(1).

(2) California Air Resources Board Vapor Recovery Test Procedure TP–201.1E—“Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves,” adopted October 8, 2003, IBR approved for § 63.11120(a)(1)(i).

(3) California Air Resources Board Vapor Recovery Test Procedure TP–201.3—“Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities,” adopted April 12, 1996 and amended March 17, 1999, IBR approved for § 63.11120(a)(2)(i).

■ 3. Part 63 is amended by adding a new subpartBBBBBB to read as follows:

Subpart BBBBBB—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

Sec.

What This Subpart Covers

- 63.11080 What is the purpose of this subpart?
- 63.11081 Am I subject to the requirements in this subpart?
- 63.11082 What parts of my affected source does this subpart cover?
- 63.11083 When do I have to comply with this subpart?

Emission Limitations and Management Practices

- 63.11086 What requirements must I meet if my facility is a bulk gasoline plant?
- 63.11087 What requirements must I meet for gasoline storage tanks if my facility is a bulk gasoline terminal, pipeline breakout station, or pipeline pumping station?
- 63.11088 What requirements must I meet for gasoline loading racks if my facility is a bulk gasoline terminal, pipeline breakout station, or pipeline pumping station?
- 63.11089 What requirements must I meet for equipment leak inspections if my facility is a bulk gasoline terminal, pipeline breakout station, or pipeline pumping station?

Testing and Monitoring Requirements

- 63.11092 What testing and monitoring requirements must I meet?

Notification, Records, and Reports

- 63.11093 What notifications must I submit and when?
- 63.11094 What are my recordkeeping requirements?
- 63.11095 What are my reporting requirements?

Other Requirements and Information

- 63.11098 What parts of the General Provisions apply to me?
- 63.11099 Who implements and enforces this subpart?
- 63.11100 What definitions apply to this subpart?

Tables to Subpart BBBBBB of Part 63

- Table 1 to Subpart BBBBBB of Part 63—Applicability Criteria, Emission Limits, and Management Practices for Storage Tanks
- Table 2 to Subpart BBBBBB of Part 63—Applicability Criteria, Emission Limits, and Management Practices for Loading Racks
- Table 3 to Subpart BBBBBB of Part 63—Applicability of General Provisions

Subpart BBBBBB—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

What This Subpart Covers

§ 63.11080 What is the purpose of this subpart?

This subpart establishes national emission limitations and management practices for hazardous air pollutants (HAP) emitted from area source gasoline distribution bulk terminals, bulk plants, and pipeline facilities. This subpart also establishes requirements to demonstrate compliance with the emission limitations and management practices.

§ 63.11081 Am I subject to the requirements in this subpart?

(a) The affected source to which this subpart applies is each area source bulk gasoline terminal, pipeline breakout station, pipeline pumping station, and bulk gasoline plant identified in paragraphs (a)(1) through (4) of this section. You are subject to the requirements in this subpart if you own or operate one or more of the affected area sources identified in paragraphs (a)(1) through (4) of this section.

(1) A bulk gasoline terminal that is not subject to the control requirements of 40 CFR part 63, subpart R (§§ 63.422, 63.423, and 63.424) or 40 CFR part 63, subpart CC (§§ 63.646, 63.648, 63.649, and 63.650).

(2) A pipeline breakout station that is not subject to the control requirements of 40 CFR part 63, subpart R (§§ 63.423 and 63.424).

(3) A pipeline pumping station.

(4) A bulk gasoline plant.

(b) If you are an owner or operator of affected sources, as defined in (a)(1) through (4) of this section, you are not required to meet the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71 as a result of being subject to this subpart. However, you are still subject to the requirement to apply for and obtain a permit under 40 CFR part 70 or 40 CFR part 71 if you meet one or more of the applicability criteria found in 40 CFR 70.3(a) and (b) or 40 CFR part 71.3(a) and (b).

§ 63.11082 What parts of my affected source does this subpart cover?

(a) The emission sources to which this subpart applies are gasoline storage tanks, gasoline loading racks, vapor collection-equipped gasoline cargo tanks, and equipment components in vapor or liquid gasoline service that meet the criteria specified in Tables 1 through 3 to this subpart.

(b) An affected source is a new affected source if you commenced construction on the affected source after November 9, 2006, and you meet the applicability criteria in § 63.11081 at the time you commenced operation.

(c) An affected source is reconstructed if you meet the criteria for reconstruction as defined in § 63.2.

(d) An affected source is an existing affected source if it is not new or reconstructed.

§ 63.11083 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If you start up your affected source before January 10, 2008, you must comply with the standards in this subpart no later than January 10, 2008.

(2) If you start up your affected source after January 10, 2008, you must comply with the standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the standards in this subpart no later than January 10, 2011.

(c) If you have an existing affected source that becomes subject to the control requirements in this subpart because of an increase in the average daily throughput, as specified in option 1 of Table 2 to this subpart, you must comply with the standards in this subpart no later than 3 years after the affected source becomes subject to the control requirements in this subpart.

Emission Limitations and Management Practices

§ 63.11086 What requirements must I meet if my facility is a bulk gasoline plant?

Each owner or operator of an affected bulk gasoline plant, as defined in § 63.11100, must comply with the requirements of paragraphs (a) through (i) of this section.

(a) Except as specified in paragraph (b), you must only load gasoline into storage tanks and cargo tanks at your facility by utilizing submerged filling, as defined in § 63.11100, and, as specified in paragraph (a)(1) or paragraph (a)(2) of this section.

(1) Submerged fill pipes installed on or before November 9, 2006, must be no more than 12 inches from the bottom of the tank.

(2) Submerged fill pipes installed after November 9, 2006, must be no more than 6 inches from the bottom of the tank.

(b) The emission sources listed in paragraphs (b)(1) through (2) of this section are not required to comply with

the control requirements in paragraph (a) of this section, but must comply only with the requirements in paragraph (d) of this section.

(1) Gasoline storage tanks with a capacity of less than 250 gallons.

(2) Gasoline storage tanks that are subject to subpart CCCCCC of this part.

(c) You must perform a monthly leak inspection of all equipment in gasoline service according to the requirements specified in § 63.11089(a) through (d).

(d) You must not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time. Measures to be taken include, but are not limited to, the following:

(1) Minimize gasoline spills;

(2) Clean up spills as expeditiously as practicable;

(3) Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use;

(4) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.

(e) You must submit an Initial Notification that you are subject to this subpart by May 9, 2008 unless you meet the requirements in paragraph (g) of this section. The Initial Notification must contain the information specified in paragraphs (e)(1) through (4) of this section. The notification must be submitted to the applicable EPA Regional Office and the delegated State authority, as specified in § 63.13.

(1) The name and address of the owner and the operator.

(2) The address (*i.e.*, physical location) of the bulk plant.

(3) A statement that the notification is being submitted in response to this subpart and identifying the requirements in paragraphs (a), (b), (c), and (d) of this section that apply to you.

(4) A brief description of the bulk plant, including the number of storage tanks in gasoline service, the capacity of each storage tank in gasoline service, and the average monthly gasoline throughput at the affected source.

(f) You must submit a Notification of Compliance Status to the applicable EPA Regional Office and the delegated State authority, as specified in § 63.13, by the compliance date specified in § 63.11083 unless you meet the requirements in paragraph (g) of this section. The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy and must indicate whether the source has complied with the requirements of this subpart. If your facility is in compliance with the requirements of

this subpart at the time the Initial Notification required under paragraph (e) of this section is due, the Notification of Compliance Status may be submitted in lieu of the Initial Notification provided it contains the information required under paragraph (e) of this section.

(g) If, prior to January 10, 2008, you are operating in compliance with an enforceable State, local, or tribal rule or permit that requires submerged fill as specified in § 63.11086(a), you are not required to submit an Initial Notification or a Notification of Compliance Status under paragraph (e) or paragraph (f) of this section.

(h) You must comply with the requirements of this subpart by the applicable dates specified in § 63.11083.

(i) You must keep applicable records and submit reports as specified in § 63.11094(d) and (e) and § 63.11095(c).

§ 63.11087 What requirements must I meet for gasoline storage tanks if my facility is a bulk gasoline terminal, pipeline breakout station, or pipeline pumping station?

(a) You must meet each emission limit and management practice in Table 1 to this subpart that applies to your gasoline storage tank.

(b) You must comply with the requirements of this subpart by the applicable dates specified in § 63.11083, except that storage vessels equipped with floating roofs and not meeting the requirements of paragraph (a) of this section must be in compliance at the first degassing and cleaning activity after January 10, 2011 or by January 10, 2018, whichever is first.

(c) You must comply with the applicable testing and monitoring requirements specified in § 63.11092(e).

(d) You must submit the applicable notifications as required under § 63.11093.

(e) You must keep records and submit reports as specified in §§ 63.11094 and 63.11095.

(f) If your gasoline storage tank is subject to, and complies with, the control requirements of 40 CFR part 60, subpart Kb of this chapter, your storage tank will be deemed in compliance with this section. You must report this determination in the Notification of Compliance Status report under § 63.11093(b).

§ 63.11088 What requirements must I meet for gasoline loading racks if my facility is a bulk gasoline terminal, pipeline breakout station, or pipeline pumping station?

(a) You must meet each emission limit and management practice in Table 2 to this subpart that applies to you.

(b) As an alternative for railcar cargo tanks to the requirements specified in

Table 2 to this subpart, you may comply with the requirements specified in § 63.422(e).

(c) You must comply with the requirements of this subpart by the applicable dates specified in § 63.11083.

(d) You must comply with the applicable testing and monitoring requirements specified in § 63.11092.

(e) You must submit the applicable notifications as required under § 63.11093.

(f) You must keep records and submit reports as specified in §§ 63.11094 and 63.11095.

§ 63.11089 What requirements must I meet for equipment leak inspections if my facility is a bulk gasoline terminal, bulk plant, pipeline breakout station, or pipeline pumping station?

(a) Each owner or operator of a bulk gasoline terminal, bulk plant, pipeline breakout station, or pipeline pumping station subject to the provisions of this subpart shall perform a monthly leak inspection of all equipment in gasoline service, as defined in § 63.11100. For this inspection, detection methods incorporating sight, sound, and smell are acceptable.

(b) A log book shall be used and shall be signed by the owner or operator at the completion of each inspection. A section of the log book shall contain a list, summary description, or diagram(s) showing the location of all equipment in gasoline service at the facility.

(c) Each detection of a liquid or vapor leak shall be recorded in the log book. When a leak is detected, an initial attempt at repair shall be made as soon as practicable, but no later than 5 calendar days after the leak is detected. Repair or replacement of leaking equipment shall be completed within 15 calendar days after detection of each leak, except as provided in paragraph (d) of this section.

(d) Delay of repair of leaking equipment will be allowed if the repair is not feasible within 15 days. The owner or operator shall provide in the semiannual report specified in § 63.11095(b), the reason(s) why the repair was not feasible and the date each repair was completed.

(e) You must comply with the requirements of this subpart by the applicable dates specified in § 63.11083.

(f) You must submit the applicable notifications as required under § 63.11093.

(g) You must keep records and submit reports as specified in §§ 63.11094 and 63.11095.

Testing and Monitoring Requirements

§ 63.11092 What testing and monitoring requirements must I meet?

(a) Each owner or operator subject to the emission standard in § 63.11088 for gasoline loading racks must comply with the requirements in paragraphs (a) through (d) of this section.

(1) Conduct a performance test on the vapor processing and collection systems according to either paragraph (a)(1)(i) or paragraph (a)(1)(ii) of this section.

(i) Use the test methods and procedures in § 60.503 of this chapter, except a reading of 500 parts per million shall be used to determine the level of leaks to be repaired under § 60.503(b) of this chapter.

(ii) Use alternative test methods and procedures in accordance with the alternative test method requirements in § 63.7(f).

(2) If you are operating your gasoline loading rack in compliance with an enforceable State, local, or tribal rule or permit that requires your loading rack to meet an emission limit of 80 milligrams (mg), or less, per liter of gasoline loaded (mg/l), you may submit a statement by a responsible official of your facility certifying the compliance status of your loading rack in lieu of the test required under paragraph (a)(1) of this section.

(3) If you have conducted performance testing on the vapor processing and collection systems within 5 years prior to January 10, 2008, and the test is for the affected facility and is representative of current or anticipated operating processes and conditions, you may submit the results of such testing in lieu of the test required under paragraph (a)(1) of this section, provided the testing was conducted using the test methods and procedures in § 60.503 of this chapter. Should the Administrator deem the prior test data unacceptable, the facility is still required to meet the requirement to conduct an initial performance test within 180 days of the rule promulgation; thus, previous test reports should be submitted as soon as possible after January 10, 2008.

(4) The performance test requirements of § 63.11092(a) do not apply to flares defined in § 63.11100 and meeting the flare requirements in § 63.11(b). The owner or operator shall demonstrate that the flare and associated vapor collection system is in compliance with the requirements in § 63.11(b) and 40 CFR 60.503(a), (b), and (d).

(b) For each performance test conducted under paragraph (a)(1) of this section, the owner or operator shall determine a monitored operating parameter value for the vapor

processing system using the procedures specified in paragraphs (b)(1) through (5) of this section.

(1) Each owner or operator of a bulk gasoline terminal subject to the provisions of this subpart shall install, calibrate, certify, operate, and maintain, according to the manufacturer's specifications, a continuous monitoring system (CMS) while gasoline vapors are displaced to the vapor processor systems specified in paragraphs (b)(1)(i) through (iv) of this section. During the performance test, continuously record the operating parameter as specified under paragraphs (b)(1)(i) through (iv) of this section.

(i) Where a carbon adsorption system is used, the owner or operator shall monitor the operation of the system as specified in paragraphs (b)(1)(i)(A) or (B) of this section.

(A) A continuous emissions monitoring system (CEMS) capable of measuring organic compound concentration shall be installed in the exhaust air stream.

(B) As an alternative to paragraph (b)(1)(i)(A) of this section, you may choose to meet the requirements listed in paragraph (b)(1)(i)(B)(1) and (2) of this section.

(1) Carbon adsorption devices shall be monitored as specified in paragraphs (b)(1)(i)(B)(1)(i), (ii), and (iii) of this section.

(i) Vacuum level shall be monitored using a pressure transmitter installed in the vacuum pump suction line, with the measurements displayed on a gauge that can be visually observed. Each carbon bed shall be observed during one complete regeneration cycle on each day of operation of the loading rack to determine the maximum vacuum level achieved.

(ii) Conduct annual testing of the carbon activity for the carbon in each carbon bed. Carbon activity shall be tested in accordance with the butane working capacity test of the American Society for Testing and Materials (ASTM) Method D 5228-92 (incorporated by reference, see § 63.14), or by another suitable procedure as recommended by the manufacturer.

(iii) Conduct monthly measurements of the carbon bed outlet volatile organic compounds (VOC) concentration over the last 5 minutes of an adsorption cycle for each carbon bed, documenting the highest measured VOC concentration. Measurements shall be made using a portable analyzer, in accordance with 40 CFR part 60, Appendix A-7, EPA Method 21 for open-ended lines.

(2) Develop and submit to the Administrator a monitoring and inspection plan that describes the owner

or operator's approach for meeting the requirements in paragraphs (b)(1)(i)(B)(2)(i) through (v) of this section.

(i) The lowest maximum required vacuum level and duration needed to assure regeneration of the carbon beds shall be determined by an engineering analysis or from the manufacturer's recommendation and shall be documented in the monitoring and inspection plan.

(ii) The owner or operator shall verify, during each day of operation of the loading rack, the proper valve sequencing, cycle time, gasoline flow, purge air flow, and operating temperatures. Verification shall be through visual observation or through an automated alarm or shutdown system that monitors and records system operation.

(iii) The owner or operator shall perform semi-annual preventive maintenance inspections of the carbon adsorption system according to the recommendations of the manufacturer of the system.

(iv) The monitoring plan developed under paragraph (2) of this section shall specify conditions that would be considered malfunctions of the carbon adsorption system during the inspections or automated monitoring performed under paragraphs (b)(1)(i)(B)(2)(i) through (iii) of this section, describe specific corrective actions that will be taken to correct any malfunction, and define what the owner or operator would consider to be a timely repair for each potential malfunction.

(v) The owner or operator shall document the maximum vacuum level observed on each carbon bed from each daily inspection and the maximum VOC concentration observed from each carbon bed on each monthly inspection as well as any system malfunction, as defined in the monitoring and inspection plan, and any activation of the automated alarm or shutdown system with a written entry into a log book or other permanent form of record. Such record shall also include a description of the corrective action taken and whether such corrective actions were taken in a timely manner, as defined in the monitoring and inspection plan, as well as an estimate of the amount of gasoline loaded during the period of the malfunction.

(ii) Where a refrigeration condenser system is used, a continuous parameter monitoring system (CPMS) capable of measuring temperature shall be installed immediately downstream from the outlet to the condenser section. Alternatively, a CEMS capable of

measuring organic compound concentration may be installed in the exhaust air stream.

(iii) Where a thermal oxidation system other than a flare is used, the owner or operator shall monitor the operation of the system as specified in paragraphs (b)(1)(iii)(A) or (B) of this section.

(A) A CPMS capable of measuring temperature shall be installed in the firebox or in the ductwork immediately downstream from the firebox in a position before any substantial heat exchange occurs.

(B) As an alternative to paragraph (b)(1)(iii)(A) of this section, you may choose to meet the requirements listed in paragraphs (b)(1)(iii)(B)(1) and (2) of this section.

(1) The presence of a thermal oxidation system pilot flame shall be monitored using a heat-sensing device, such as an ultraviolet beam sensor or a thermocouple, installed in proximity to the pilot light to indicate the presence of a flame.

(2) Develop and submit to the Administrator a monitoring and inspection plan that describes the owner or operator's approach for meeting the requirements in paragraphs (b)(1)(iii)(B)(2)(i) through (v) of this section.

(i) The thermal oxidation system shall be equipped to automatically prevent gasoline loading operations from beginning at any time that the pilot flame is absent.

(ii) The owner or operator shall verify, during each day of operation of the loading rack, the proper operation of the assist-air blower, the vapor line valve, and the emergency shutdown system. Verification shall be through visual observation or through an automated alarm or shutdown system that monitors and records system operation.

(iii) The owner or operator shall perform semi-annual preventive maintenance inspections of the thermal oxidation system according to the recommendations of the manufacturer of the system.

(iv) The monitoring plan developed under paragraph (2) of this section shall specify conditions that would be considered malfunctions of the thermal oxidation system during the inspections or automated monitoring performed under paragraphs (b)(1)(iii)(B)(2)(ii) and (iii) of this section, describe specific corrective actions that will be taken to correct any malfunction, and define what the owner or operator would consider to be a timely repair for each potential malfunction.

(v) The owner or operator shall document any system malfunction, as defined in the monitoring and

inspection plan, and any activation of the automated alarm or shutdown system with a written entry into a log book or other permanent form of record. Such record shall also include a description of the corrective action taken and whether such corrective actions were taken in a timely manner, as defined in the monitoring and inspection plan, as well as an estimate of the amount of gasoline loaded during the period of the malfunction.

(iv) Monitoring an alternative operating parameter or a parameter of a vapor processing system other than those listed in paragraphs (b)(1)(i) through (iii) of this section will be allowed upon demonstrating to the Administrator's satisfaction that the alternative parameter demonstrates continuous compliance with the emission standard in § 63.11088(a).

(2) Where a flare meeting the requirements in § 63.11(b) is used, a heat-sensing device, such as an ultraviolet beam sensor or a thermocouple, must be installed in proximity to the pilot light to indicate the presence of a flame.

(3) Determine an operating parameter value based on the parameter data monitored during the performance test, supplemented by engineering assessments and the manufacturer's recommendations.

(4) Provide for the Administrator's approval the rationale for the selected operating parameter value, monitoring frequency, and averaging time, including data and calculations used to develop the value and a description of why the value, monitoring frequency, and averaging time demonstrate continuous compliance with the emission standard in § 63.11088(a).

(5) If you have chosen to comply with the performance testing alternatives provided under paragraph (a)(2) or paragraph (a)(3) of this section, the monitored operating parameter value may be determined according to the provisions in paragraph (b)(5)(i) or paragraph (b)(5)(ii) of this section.

(i) Monitor an operating parameter that has been approved by the Administrator and is specified in your facility's current enforceable operating permit. At the time that the Administrator requires a new performance test, you must determine the monitored operating parameter value according to the requirements specified in paragraph (b) of this section.

(ii) Determine an operating parameter value based on engineering assessment and the manufacturer's recommendation and submit the information specified in paragraph (b)(4) of this section for

approval by the Administrator. At the time that the Administrator requires a new performance test, you must determine the monitored operating parameter value according to the requirements specified in paragraph (b) of this section.

(c) For performance tests performed after the initial test required under paragraph (a) of this section, the owner or operator shall document the reasons for any change in the operating parameter value since the previous performance test.

(d) Each owner or operator of a bulk gasoline terminal subject to the provisions of this subpart shall comply with the requirements in paragraphs (d)(1) through (4) of this section.

(1) Operate the vapor processing system in a manner not to exceed or not to go below, as appropriate, the operating parameter value for the parameters described in paragraph (b)(1) of this section.

(2) In cases where an alternative parameter pursuant to paragraph (b)(1)(iv) or paragraph (b)(5)(i) of this section is approved, each owner or operator shall operate the vapor processing system in a manner not to exceed or not to go below, as appropriate, the alternative operating parameter value.

(3) Operation of the vapor processing system in a manner exceeding or going below the operating parameter value, as appropriate, shall constitute a violation of the emission standard in § 63.11088(a), except as specified in paragraph (d)(4) of this section.

(4) For the monitoring and inspection, as required under paragraphs (b)(1)(i)(B)(2) and (b)(1)(iii)(B)(2) of this section, malfunctions that are discovered shall not constitute a violation of the emission standard in § 63.11088(a) if corrective actions as described in the monitoring and inspection plan are followed. The owner or operator must:

(i) Initiate corrective action to determine the cause of the problem within 1 hour;

(ii) Initiate corrective action to fix the problem within 24 hours;

(iii) Complete all corrective actions needed to fix the problem as soon as practicable consistent with good air pollution control practices for minimizing emissions;

(iv) Minimize periods of start-up, shutdown, or malfunction; and

(v) Take any necessary corrective actions to restore normal operation and prevent the recurrence of the cause of the problem.

(e) Each owner or operator subject to the emission standard in § 63.11087 for

gasoline storage tanks shall comply with the requirements in paragraphs (e)(1) through (3) of this section.

(1) If your gasoline storage tank is equipped with an internal floating roof, you must perform inspections of the floating roof system according to the requirements of § 60.113b(a) if you are complying with option 2(b) in Table 1 to this subpart, or according to the requirements of § 63.1063(c)(1) if you are complying with option 2(d) in Table 1 to this subpart.

(2) If your gasoline storage tank is equipped with an external floating roof, you must perform inspections of the floating roof system according to the requirements of § 60.113b(b) if you are complying with option 2(c) in Table 1 to this subpart, or according to the requirements of § 63.1063(c)(2) if you are complying with option 2(d) in Table 1 to this subpart.

(3) If your gasoline storage tank is equipped with a closed vent system and control device, you must conduct a performance test and determine a monitored operating parameter value in accordance with the requirements in paragraphs (a) through (d) of this section, except that the applicable level of control specified in paragraph (a)(2) of this section shall be a 95-percent reduction in inlet total organic compounds (TOC) levels rather than 80 mg/l of gasoline loaded.

(f) The annual certification test for gasoline cargo tanks shall consist of the test methods specified in paragraphs (f)(1) or (f)(2) of this section.

(1) *EPA Method 27, Appendix A-8, 40 CFR part 60.* Conduct the test using a time period (t) for the pressure and vacuum tests of 5 minutes. The initial pressure (P_i) for the pressure test shall be 460 millimeters (mm) of water (18 inches of water), gauge. The initial vacuum (V_i) for the vacuum test shall be 150 mm of water (6 inches of water), gauge. The maximum allowable pressure and vacuum changes (Δp , Δv) for all affected gasoline cargo tanks is 3 inches of water, or less, in 5 minutes.

(2) *Railcar bubble leak test procedures.* As an alternative to the annual certification test required under paragraph (1) of this section for certification leakage testing of gasoline cargo tanks, the owner or operator may comply with paragraphs (f)(2)(i) and (ii) of this section for railcar cargo tanks, provided the railcar cargo tank meets the requirement in paragraph (f)(2)(iii) of this section.

(i) Comply with the requirements of 49 CFR 173.31(d), 49 CFR 179.7, 49 CFR 180.509, and 49 CFR 180.511 for the periodic testing of railcar cargo tanks.

(ii) The leakage pressure test procedure required under 49 CFR 180.509(j) and used to show no indication of leakage under 49 CFR 180.511(f) shall be ASTM E 515-95, BS EN 1593:1999, or another bubble leak test procedure meeting the requirements in 49 CFR 179.7, 49 CFR 180.505, and 49 CFR 180.509.

(iii) The alternative requirements in this paragraph (f)(2) may not be used for any railcar cargo tank that collects gasoline vapors from a vapor balance system and the system complies with a Federal, State, local, or tribal rule or permit. A vapor balance system is a piping and collection system designed to collect gasoline vapors displaced from a storage vessel, barge, or other container being loaded, and routes the displaced gasoline vapors into the railcar cargo tank from which liquid gasoline is being unloaded.

Notifications, Records, and Reports

§ 63.11093 What notifications must I submit and when?

(a) Each owner or operator of an affected source under this subpart must submit an Initial Notification as specified in § 63.9(b). If your facility is in compliance with the requirements of this subpart at the time the Initial Notification is due, the Notification of Compliance Status required under paragraph (b) of this section may be submitted in lieu of the Initial Notification.

(b) Each owner or operator of an affected source under this subpart must submit a Notification of Compliance Status as specified in § 63.9(h). The Notification of Compliance Status must specify which of the compliance options included in Table 1 to this subpart is used to comply with this subpart.

(c) Each owner or operator of an affected bulk gasoline terminal under this subpart must submit a Notification of Performance Test, as specified in § 63.9(e), prior to initiating testing required by § 63.11092(a) or § 63.11092(b).

(d) Each owner or operator of any affected source under this subpart must submit additional notifications specified in § 63.9, as applicable.

§ 63.11094 What are my recordkeeping requirements?

(a) Each owner or operator of a bulk gasoline terminal or pipeline breakout station whose storage vessels are subject to the provisions of this subpart shall keep records as specified in § 60.115b of this chapter if you are complying with options 2(a), 2(b), or 2(c) in Table 1 to this subpart, except records shall be kept for at least 5 years. If you are

complying with the requirements of option 2(d) in Table 1 to this subpart, you shall keep records as specified in § 63.1065.

(b) Each owner or operator of a bulk gasoline terminal subject to the provisions of this subpart shall keep records of the test results for each gasoline cargo tank loading at the facility as specified in paragraphs (b)(1) through (3) of this section.

(1) Annual certification testing performed under § 63.11092(f)(1) and periodic railcar bubble leak testing performed under § 63.11092(f)(2).

(2) The documentation file shall be kept up-to-date for each gasoline cargo tank loading at the facility. The documentation for each test shall include, as a minimum, the following information:

(i) *Name of test:* Annual Certification Test—Method 27 or Periodic Railcar Bubble Leak Test Procedure.

(ii) Cargo tank owner's name and address.

(iii) Cargo tank identification number.

(iv) Test location and date.

(v) Tester name and signature.

(vi) *Witnessing inspector, if any:* Name, signature, and affiliation.

(vii) *Vapor tightness repair:* Nature of repair work and when performed in relation to vapor tightness testing.

(viii) *Test results:* Test pressure; pressure or vacuum change, mm of water; time period of test; number of leaks found with instrument; and leak definition.

(3) If you are complying with the alternative requirements in § 63.11088(b), you must keep records documenting that you have verified the vapor tightness testing according to the requirements of the Administrator.

(c) As an alternative to keeping records at the terminal of each gasoline cargo tank test result as required in paragraph (b) of this section, an owner or operator may comply with the requirements in either paragraph (c)(1) or paragraph (c)(2) of this section.

(1) An electronic copy of each record is instantly available at the terminal.

(i) The copy of each record in paragraph (c)(1) of this section is an exact duplicate image of the original paper record with certifying signatures.

(ii) The Administrator is notified in writing that each terminal using this alternative is in compliance with paragraph (c)(1) of this section.

(2) For facilities that use a terminal automation system to prevent gasoline cargo tanks that do not have valid cargo tank vapor tightness documentation from loading (e.g., via a card lock-out system), a copy of the documentation is made available (e.g., via facsimile) for

inspection by the Administrator's delegated representatives during the course of a site visit, or within a mutually agreeable time frame.

(i) The copy of each record in paragraph (c)(2) of this section is an exact duplicate image of the original paper record with certifying signatures.

(ii) The Administrator is notified in writing that each terminal using this alternative is in compliance with paragraph (c)(2) of this section.

(d) Each owner or operator subject to the equipment leak provisions of § 63.11089 shall prepare and maintain a record describing the types, identification numbers, and locations of all equipment in gasoline service. For facilities electing to implement an instrument program under § 63.11089, the record shall contain a full description of the program.

(e) Each owner or operator of an affected source subject to equipment leak inspections under § 63.11089 shall record in the log book for each leak that is detected the information specified in paragraphs (e)(1) through (7) of this section.

(1) The equipment type and identification number.

(2) The nature of the leak (i.e., vapor or liquid) and the method of detection (i.e., sight, sound, or smell).

(3) The date the leak was detected and the date of each attempt to repair the leak.

(4) Repair methods applied in each attempt to repair the leak.

(5) "Repair delayed" and the reason for the delay if the leak is not repaired within 15 calendar days after discovery of the leak.

(6) The expected date of successful repair of the leak if the leak is not repaired within 15 days.

(7) The date of successful repair of the leak.

(f) Each owner or operator of a bulk gasoline terminal subject to the provisions of this subpart shall:

(1) Keep an up-to-date, readily accessible record of the continuous monitoring data required under § 63.11092(b) or § 63.11092(e). This record shall indicate the time intervals during which loadings of gasoline cargo tanks have occurred or, alternatively, shall record the operating parameter data only during such loadings. The date and time of day shall also be indicated at reasonable intervals on this record.

(2) Record and report simultaneously with the Notification of Compliance Status required under § 63.11093(b):

(i) All data and calculations, engineering assessments, and manufacturer's recommendations used

in determining the operating parameter value under § 63.11092(b) or § 63.11092(e); and

(ii) The following information when using a flare under provisions of § 63.11(b) to comply with § 63.11087(a):

(A) Flare design (i.e., steam-assisted, air-assisted, or non-assisted); and

(B) All visible emissions (VE) readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination required under § 63.11092(e)(3).

(3) Keep an up-to-date, readily accessible copy of the monitoring and inspection plan required under § 63.11092(b)(1)(i)(B)(2) or § 63.11092(b)(1)(iii)(B)(2).

(4) Keep an up-to-date, readily accessible record of all system malfunctions, as specified in § 63.11092(b)(1)(i)(B)(2)(v) or § 63.11092(b)(1)(iii)(B)(2)(v).

(5) If an owner or operator requests approval to use a vapor processing system or monitor an operating parameter other than those specified in § 63.11092(b), the owner or operator shall submit a description of planned reporting and recordkeeping procedures.

§ 63.11095 What are my reporting requirements?

(a) Each owner or operator of a bulk terminal or a pipeline breakout station subject to the control requirements of this subpart shall include in a semiannual compliance report to the Administrator the following information, as applicable:

(1) For storage vessels, if you are complying with options 2(a), 2(b), or 2(c) in Table 1 to this subpart, the information specified in § 60.115b(a), § 60.115b(b), or § 60.115b(c) of this chapter, depending upon the control equipment installed, or, if you are complying with option 2(d) in Table 1 to this subpart, the information specified in § 63.1066.

(2) For loading racks, each loading of a gasoline cargo tank for which vapor tightness documentation had not been previously obtained by the facility.

(3) For equipment leak inspections, the number of equipment leaks not repaired within 15 days after detection.

(b) Each owner or operator of an affected source subject to the control requirements of this subpart shall submit an excess emissions report to the Administrator at the time the semiannual compliance report is submitted. Excess emissions events under this subpart, and the information to be included in the excess emissions

report, are specified in paragraphs (b)(1) through (5) of this section.

(1) Each instance of a non-vapor-tight gasoline cargo tank loading at the facility in which the owner or operator failed to take steps to assure that such cargo tank would not be reloaded at the facility before vapor tightness documentation for that cargo tank was obtained.

(2) Each reloading of a non-vapor-tight gasoline cargo tank at the facility before vapor tightness documentation for that cargo tank is obtained by the facility in accordance with § 63.11094(b).

(3) Each exceedance or failure to maintain, as appropriate, the monitored operating parameter value determined under § 63.11092(b). The report shall include the monitoring data for the days on which exceedances or failures to maintain have occurred, and a description and timing of the steps taken to repair or perform maintenance on the vapor collection and processing systems or the CMS.

(4) Each instance in which malfunctions discovered during the monitoring and inspections required under § 63.11092(b)(1)(i)(B)(2) and (b)(1)(iii)(B)(2) were not resolved according to the necessary corrective actions described in the monitoring and inspection plan. The report shall include a description of the malfunction and the timing of the steps taken to correct the malfunction.

(5) For each occurrence of an equipment leak for which no repair attempt was made within 5 days or for which repair was not completed within 15 days after detection:

(i) The date on which the leak was detected;

(ii) The date of each attempt to repair the leak;

(iii) The reasons for the delay of repair; and

(iv) The date of successful repair.

(c) Each owner or operator of a bulk gasoline plant or a pipeline pumping station shall submit a semiannual excess emissions report, including the information specified in paragraphs (a)(3) and (b)(4) of this section, only for a 6-month period during which an excess emission event has occurred. If no excess emission events have occurred during the previous 6-month period, no report is required.

Other Requirements and Information

§ 63.11098 What parts of the General Provisions apply to me?

Table 3 to this subpart shows which parts of the General Provisions apply to you.

§ 63.11099 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities specified in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.11086 through 63.11088 and § 63.11092. Any owner or operator requesting to use an alternative means of emission limitation for storage vessels in Table 1 to this subpart must follow either the provisions in § 60.114b of this chapter if you are complying with options 2(a), 2(b), or 2(c) in Table 1 to this subpart, or the provisions in § 63.1064 if you are complying with option 2(d) in Table 1 to this subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

§ 63.11100 What definitions apply to this subpart?

As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act (CAA),

in subparts A, K, Ka, Kb, and XX of part 60 of this chapter, or in subparts A, R, and WW of this part. All terms defined in both subpart A of part 60 of this chapter and subparts A, R, and WW of this part shall have the meaning given in subparts A, R, and WW of this part. For purposes of this subpart, definitions in this section supersede definitions in other parts or subparts.

Administrator means the Administrator of the United States Environmental Protection Agency or his or her authorized representative (e.g., a State that has been delegated the authority to implement the provisions of this subpart).

Bulk gasoline plant means any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or cargo tank and has a gasoline throughput of less than 20,000 gallons per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State, or local law and discoverable by the Administrator and any other person.

Bulk gasoline terminal means any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or cargo tank and has a gasoline throughput of 20,000 gallons per day or greater. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State, or local law and discoverable by the Administrator and any other person.

Equipment means each valve, pump, pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in the gasoline liquid transfer and vapor collection systems. This definition also includes the entire vapor processing system except the exhaust port(s) or stack(s).

Flare means a thermal oxidation system using an open (without enclosure) flame.

Gasoline cargo tank means a delivery tank truck or railcar which is loading gasoline or which has loaded gasoline on the immediately previous load.

In gasoline service means that a piece of equipment is used in a system that transfers gasoline or gasoline vapors.

Monthly means once per calendar month at regular intervals of no less than 28 days and no more than 35 days.

Operating parameter value means a value for an operating or emission parameter of the vapor processing system (e.g., temperature) which, if maintained continuously by itself or in combination with one or more other operating parameter values, determines that an owner or operator has complied with the applicable emission standard. The operating parameter value is determined using the procedures specified in § 63.11092(b).

Pipeline breakout station means a facility along a pipeline containing storage vessels used to relieve surges or receive and store gasoline from the pipeline for re-injection and continued transportation by pipeline or to other facilities.

Pipeline pumping station means a facility along a pipeline containing pumps to maintain the desired pressure and flow of product through the pipeline and not containing storage vessels.

Submerged filling means, for the purposes of this subpart, the filling of a gasoline cargo tank or a stationary storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in § 63.11086(a) from the bottom of the tank. Bottom filling of gasoline cargo tanks or storage tanks is included in this definition.

Vapor collection-equipped gasoline cargo tank means a gasoline cargo tank that is outfitted with the equipment necessary to transfer vapors, displaced during the loading of gasoline into the cargo tank, to a vapor processor system.

Vapor-tight gasoline cargo tank means the same as the definition of the term “vapor-tight gasoline tank truck” in § 60.501, except that for this subpart the term “gasoline tank truck” means “gasoline cargo tank,” as defined in this section.

TABLE 1 TO SUBPART BBBB OF PART 63.—APPLICABILITY CRITERIA, EMISSION LIMITS, AND MANAGEMENT PRACTICES FOR STORAGE TANKS

If you own or operate	Then you must
1. A gasoline storage tank with a capacity of less than 75 cubic meters (m ³).	Equip each gasoline storage tank with a fixed roof that is mounted to the storage tank in a stationary manner, and maintain all openings in a closed position at all times when not in use.
2. A gasoline storage tank with a capacity of greater than or equal to 75 m ³ .	(a) Reduce emissions of total organic HAP or TOC by 95 weight-percent with a closed vent system and control device as specified in § 60.112b(a)(3) of this chapter; or

TABLE 1 TO SUBPART BBBB of PART 63.—APPLICABILITY CRITERIA, EMISSION LIMITS, AND MANAGEMENT PRACTICES FOR STORAGE TANKS—Continued

If you own or operate	Then you must
	<p>(b) Equip each internal floating roof gasoline storage tank according to the requirements in § 60.112b(a)(1) of this chapter, except for the secondary seal requirements under § 60.112b(a)(1)(ii)(B) and the requirements in § 60.112b(a)(1)(iv) through (ix) of this chapter; and</p> <p>(c) Equip each external floating roof gasoline storage tank according to the requirements in § 60.112b(a)(2) of this chapter, except that the requirements of § 60.112b(a)(2)(ii) of this chapter shall only be required if such storage tank does not currently meet the requirements of § 60.112b(a)(2)(i) of this chapter; or</p> <p>(d) Equip and operate each internal and external floating roof gasoline storage tank according to the applicable requirements in § 63.1063(a)(1) and (b), and equip each external floating roof gasoline storage tank according to the requirements of § 63.1063(a)(2) if such storage tank does not currently meet the requirements of § 63.1063(a)(1).</p>

TABLE 2 TO SUBPART BBBB of PART 63.—APPLICABILITY CRITERIA, EMISSION LIMITS, AND MANAGEMENT PRACTICES FOR LOADING RACKS

If you own or operate	Then you must
<p>1. A gasoline loading rack(s) at a bulk gasoline terminal with a gasoline throughput of 250,000 gallons per day, or greater.</p>	<p>(a) Equip your loading rack(s) with a vapor collection system designed to collect the TOC vapors displaced from cargo tanks during product loading; and</p> <p>(b) Reduce emissions of TOC to less than or equal to 80 mg/l of gasoline loaded into gasoline cargo tanks at the loading rack; and</p> <p>(c) Design and operate the vapor collection system to prevent any TOC vapors collected at one loading rack from passing to another loading rack; and</p> <p>(d) Limit the loading of gasoline into gasoline cargo tanks that are vapor tight using the procedures specified in § 60.502(e) through (j) of this chapter. For the purposes of this section, the term “tank truck” as used in § 60.502(e) through (j) of this chapter means “cargo tank” as defined in § 63.11100.</p>
<p>2. A gasoline loading rack(s) at a bulk gasoline terminal with a gasoline throughput of less than 250,000 gallons per day.</p>	<p>(a) Use submerged filling with a submerged fill pipe that is no more than 6 inches from the bottom of the cargo tank.</p> <p>(b) Make records available within 24 hours of a request by the Administrator to document your gasoline throughput.</p>

TABLE 3 TO SUBPART BBBB of PART 63.—APPLICABILITY OF GENERAL PROVISIONS

Citation	Subject	Brief description	Applies to subpart BBBB
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes, specific requirements given in § 63.11081.
§ 63.1(c)(2)	Title V permit	Requirements for obtaining a title V permit from the applicable permitting authority.	Yes, § 63.11081(b) of subpart BBBB exempts identified area sources from the obligation to obtain title V operating permits.
§ 63.2	Definitions	Definitions for part 63 standards	Yes, additional definitions in § 63.11100.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; circumvention, severability	Yes.
§ 63.5	Construction/Reconstruction.	Applicability; applications; approvals	Yes.
§ 63.6(a)	Compliance with Standards/Operation & Maintenance Applicability.	General Provisions apply unless compliance extension; General Provisions apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources that Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	No.

TABLE 3 TO SUBPART BBBBBB OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart BBBBBB
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in this subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	No, § 63.11083 specifies the compliance dates.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources that Become Major.	Area sources that become major must comply with major source standards by date indicated in this subpart or by equivalent time period (e.g., 3 years).	No.
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)	Operation & Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; and operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction (SSM) plan.	Requirement for SSM plan; content of SSM plan; actions during SSM.	No.
§ 63.6(f)(1)	Compliance Except During SSM.	You must comply with emission standards at all times except during SSM.	No.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)(1)	Compliance with Opacity/VE Standards.	You must comply with opacity/VE standards at all times except during SSM.	No.
§ 63.6(h)(2)(i)	Determining Compliance with Opacity/VE Standards.	If standard does not State test method, use EPA Method 9 for opacity in appendix A of part 60 of this chapter and EPA Method 22 for VE in appendix A of part 60 of this chapter.	No.
§ 63.6(h)(2)(ii)	[Reserved].		
§ 63.6(h)(2)(iii)	Using Previous Tests to Demonstrate Compliance with Opacity/VE Standards.	Criteria for when previous opacity/VE testing can be used to show compliance with this subpart.	No.
§ 63.6(h)(3)	[Reserved].		
§ 63.6(h)(4)	Notification of Opacity/VE Observation Date.	Must notify Administrator of anticipated date of observation.	No.
§ 63.6(h)(5)(i), (iii)–(v)	Conducting Opacity/VE Observations.	Dates and schedule for conducting opacity/VE observations.	No.
§ 63.6(h)(5)(ii)	Opacity Test Duration and Averaging Times.	Must have at least 3 hours of observation with 30 6-minute averages.	No.
§ 63.6(h)(6)	Records of Conditions During Opacity/VE Observations.	Must keep records available and allow Administrator to inspect.	No.
§ 63.6(h)(7)(i)	Report Continuous Opacity Monitoring System (COMS) Monitoring Data from Performance Test.	Must submit COMS data with other performance test data.	No.
§ 63.6(h)(7)(ii)	Using COMS Instead of EPA Method 9.	Can submit COMS data instead of EPA Method 9 results even if rule requires EPA Method 9 in appendix A of part 60 of this chapter, but must notify Administrator before performance test.	No.
§ 63.6(h)(7)(iii)	Averaging Time for COMS During Performance Test.	To determine compliance, must reduce COMS data to 6-minute averages.	No.
§ 63.6(h)(7)(iv)	COMS Requirements	Owner/operator must demonstrate that COMS performance evaluations are conducted according to §63.8(e); COMS are properly maintained and operated according to §63.8(c) and data quality as §63.8(d).	No.
§ 63.6(h)(7)(v)	Determining Compliance with Opacity/VE Standards.	COMS is probable but not conclusive evidence of compliance with opacity standard, even if EPA Method 9 observation shows otherwise. Requirements for COMS to be probable evidence-proper maintenance, meeting Performance Specification 1 in appendix B of part 60 of this chapter, and data have not been altered.	No.
§ 63.6(h)(8)	Determining Compliance with Opacity/VE Standards.	Administrator will use all COMS, EPA Method 9 (in appendix A of part 60 of this chapter), and EPA Method 22 (in appendix A of part 60 of this chapter) results, as well as information about operation and maintenance to determine compliance.	No.

TABLE 3 TO SUBPART BBBB OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart BBBB
§ 63.6(h)(9)	Adjusted Opacity Standard	Procedures for Administrator to adjust an opacity standard.	No.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt any source from requirement to comply with this subpart.	Yes.
§ 63.7(a)(2)	Performance Test Dates ...	Dates for conducting initial performance testing; must conduct 180 days after compliance date.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test	Yes.
§ 63.7(b)(2)	Notification of Re-scheduling.	If have to reschedule performance test, must notify Administrator of rescheduled date as soon as practicable and without delay.	Yes.
§ 63.7(c)	Quality Assurance (QA)/ Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM.	Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to this subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an intermediate or major change, or alternative to a test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the notification of compliance status; keep data for 5 years.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring of Flares	Monitoring requirements for flares in § 63.11 apply	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each affected source or after combined with another affected source before it is released to the atmosphere provided the monitoring is sufficient to demonstrate compliance with the standard; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)–(iii)	Routine and Predictable SSM.	Follow the SSM plan for routine repairs; keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan.	Yes.
§ 63.8(c)(2)–(8)	CMS Requirements	Must install to get representative emission or parameter measurements; must verify operational status before or at performance test.	Yes.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions.	No.
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports	Yes.

TABLE 3 TO SUBPART BBBB OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart BBBB
§ 63.8(f) (1)–(5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes.
§ 63.8(g)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1 hour averages computed over at least 4 equally spaced data points; data that cannot be used in average.	Yes.
§ 63.9(a)	Notification Requirements	Applicability and State delegation	Yes.
§ 63.9(b) (1)–(2), (4)–(5)	Initial Notifications	Submit notification within 120 days after effective date; notification of intent to construct/reconstruct, notification of commencement of construction/reconstruction, notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed best available control technology or lowest achievable emission rate.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Sources.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test.	Notify Administrator 30 days prior	No.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification about use of COMS data; notification that exceeded criterion for relative accuracy alternative.	Yes, however, there are no opacity standards.
§ 63.9(h) (1)–(6)	Notification of Compliance Status.	Contents due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes, however, there are no opacity standards.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Record-keeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than one source.	Yes.
§ 63.10(b)(1)	Record-keeping/Reporting	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i)–(iv)	Records Related to SSM	Occurrence of each for operations (process equipment); occurrence of each malfunction of air pollution control equipment; maintenance on air pollution control equipment; actions during SSM.	Yes.
§ 63.10(b)(2)(vi)–(xi)	CMS Records	Malfunctions, inoperative, out-of-control periods	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting initial notification and notification of compliance status.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)	Records	Additional records for CMS	No.
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	No.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	SSM Reports	Contents and submission	Yes.
§ 63.10(e)(1)–(2)	Additional CMS Reports	Must report results for each CEMS on a unit; written copy of CMS performance evaluation; 2–3 copies of COMS performance evaluation.	No.
§ 63.10(e)(3)(i)–(iii)	Reports	Schedule for reporting excess emissions	Yes, note that § 63.11095 specifies excess emission events for this subpart.

TABLE 3 TO SUBPART BBBB OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart BBBB
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedances (now defined as deviations); provision to request semiannual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emissions (now defined as deviations), report contents in a statement that there have been no deviations; must submit report containing all of the information in §§ 63.8(c)(7)–(8) and 63.10(c)(5)–(13).	Yes, § 63.11095 specifies excess emission events for this subpart.
§ 63.10(e)(3)(vi)–(viii)	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMS; requires all of the information in §§ 63.8(c)(7)–(8) and 63.10(c)(5)–(13).	Yes.
§ 63.10(e)(4)	Reporting COMS Data	Must submit COMS data with performance test data ...	Yes.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11(b)	Flares	Requirements for flares	Yes, the section references § 63.11(b).
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporations by Reference.	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information ..	Public and confidential information	Yes.

■ 4. Part 63 is amended by adding a new subpart CCCCCC to read as follows:

Subpart CCCCCC—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities

Sec.

What This Subpart Covers

- 63.11110 What is the purpose of this subpart?
- 63.11111 Am I subject to the requirements in this subpart?
- 63.11112 What parts of my affected source does this subpart cover?
- 63.11113 When do I have to comply with this subpart?

Emission Limitations and Management Practices

- 63.11116 Requirements for facilities with monthly throughput of less than 10,000 gallons of gasoline.
- 63.11117 Requirements for facilities with monthly throughput of 10,000 gallons of gasoline or more.
- 63.11118 Requirements for facilities with monthly throughput of 100,000 gallons of gasoline or more.

Testing and Monitoring Requirements

- 63.11120 What testing and monitoring requirements must I meet?

Notification, Records, and Reports

- 63.11124 What notifications must I submit and when?
- 63.11125 What are my recordkeeping requirements?
- 63.11126 What are my reporting requirements?

Other Requirements and Information

- 63.11130 What parts of the General Provisions apply to me?
- 63.11131 Who implements and enforces this subpart?
- 63.11132 What definitions apply to this subpart?

Tables to Subpart CCCCCC of Part 63

- Table 1 to Subpart CCCCCC of Part 63—Applicability Criteria and Management Practices for Gasoline Dispensing Facilities with Monthly Throughput of 100,000 Gallons of Gasoline or More
- Table 2 to Subpart CCCCCC of Part 63—Applicability Criteria and Management Practices for Gasoline Cargo Tanks Unloading at Gasoline Dispensing Facilities with Monthly Throughput of 100,000 Gallons of Gasoline or More
- Table 3 to Subpart CCCCCC of Part 63—Applicability of General Provisions

Subpart CCCCCC—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities

What This Subpart Covers

§ 63.11110 What is the purpose of this subpart?

This subpart establishes national emission limitations and management practices for hazardous air pollutants (HAP) emitted from the loading of gasoline storage tanks at gasoline dispensing facilities (GDF). This subpart also establishes requirements to demonstrate compliance with the emission limitations and management practices.

§ 63.11111 Am I subject to the requirements in this subpart?

(a) The affected source to which this subpart applies is each GDF that is located at an area source. The affected source includes each gasoline cargo tank during the delivery of product to a GDF and also includes each storage tank.

(b) If your GDF has a monthly throughput of less than 10,000 gallons of gasoline, you must comply with the requirements in § 63.11116.

(c) If your GDF has a monthly throughput of 10,000 gallons of gasoline or more, you must comply with the requirements in § 63.11117.

(d) If your GDF has a monthly throughput of 100,000 gallons of gasoline or more, you must comply with the requirements in § 63.11118.

(e) An affected source shall, upon request by the Administrator, demonstrate that their average monthly throughput is less than the 10,000-gallon or the 100,000-gallon threshold level, as applicable.

(f) If you are an owner or operator of affected sources, as defined in paragraph (a) of this section, you are not required to obtain a permit under 40 CFR part 70 or 40 CFR part 71 as a result of being subject to this subpart. However, you must still apply for and obtain a permit under 40 CFR part 70 or 40 CFR part 71 if you meet one or more of the applicability criteria found in 40 CFR 70.3(a) and (b) or 40 CFR 71.3(a) and (b).

(g) The loading of aviation gasoline storage tanks at airports is not subject to this subpart and the aviation gasoline is not included in the gasoline throughput specified in paragraphs (b) through (e) of this section.

§ 63.11112 What parts of my affected source does this subpart cover?

(a) The emission sources to which this subpart applies are gasoline storage tanks and associated equipment components in vapor or liquid gasoline service at new, reconstructed, or existing GDF that meet the criteria specified in § 63.11111. Pressure/Vacuum vents on gasoline storage tanks and the equipment necessary to unload product from cargo tanks into the storage tanks at GDF are covered emission sources. The equipment used for the refueling of motor vehicles is not covered by this subpart.

(b) An affected source is a new affected source if you commenced construction on the affected source after November 9, 2006, and you meet the applicability criteria in § 63.11111 at the time you commenced operation.

(c) An affected source is reconstructed if you meet the criteria for reconstruction as defined in § 63.2.

(d) An affected source is an existing affected source if it is not new or reconstructed.

§ 63.11113 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If you start up your affected source before January 10, 2008, you must comply with the standards in this subpart no later than January 10, 2008.

(2) If you start up your affected source after January 10, 2008, you must comply with the standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the standards in this subpart no later than January 10, 2011.

(c) If you have an existing affected source that becomes subject to the control requirements in this subpart because of an increase in the average monthly throughput, as specified in § 63.11111(c) or § 63.11111(d), you must comply with the standards in this subpart no later than 3 years after the affected source becomes subject to the control requirements in this subpart.

Emission Limitations and Management Practices

§ 63.11116 Requirements for facilities with monthly throughput of less than 10,000 gallons of gasoline.

(a) You must not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time. Measures to be taken include, but are not limited to, the following:

- (1) Minimize gasoline spills;
- (2) Clean up spills as expeditiously as practicable;
- (3) Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use;
- (4) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.

(b) You are not required to submit notifications or reports, but you must have records available within 24 hours of a request by the Administrator to document your gasoline throughput.

(c) You must comply with the requirements of this subpart by the applicable dates specified in § 63.11113.

§ 63.11117 Requirements for facilities with monthly throughput of 10,000 gallons of gasoline or more.

(a) You must comply with the requirements in section § 63.11116(a).

(b) Except as specified in paragraph (c), you must only load gasoline into storage tanks at your facility by utilizing submerged filling, as defined in § 63.11132, and as specified in paragraph (b)(1) or paragraph (b)(2) of this section.

(1) Submerged fill pipes installed on or before November 9, 2006, must be no more than 12 inches from the bottom of the storage tank.

(2) Submerged fill pipes installed after November 9, 2006, must be no more than 6 inches from the bottom of the storage tank.

(c) Gasoline storage tanks with a capacity of less than 250 gallons are not required to comply with the submerged fill requirements in paragraph (b) of this section, but must comply only with all of the requirements in § 63.11116.

(d) You must have records available within 24 hours of a request by the Administrator to document your gasoline throughput.

(e) You must submit the applicable notifications as required under § 63.11124(b).

(f) You must comply with the requirements of this subpart by the applicable dates contained in § 63.11113.

§ 63.11118 Requirements for facilities with monthly throughput of 100,000 gallons of gasoline or more.

(a) You must comply with the requirements in §§ 63.11116(a) and 63.11117(b).

(b) Except as provided in paragraph (c) of this section, you must meet the requirements in either paragraph (b)(1) or paragraph (b)(2) of this section.

(1) Each management practice in Table 1 to this subpart that applies to your GDF.

(2) If, prior to January 10, 2008, you satisfy the requirements in both paragraphs (b)(2)(i) and (ii) of this section, you will be deemed in compliance with this subsection.

(i) You operate a vapor balance system at your GDF that meets the requirements of either paragraph (b)(2)(i)(A) or paragraph (b)(2)(i)(B) of this section.

(A) Achieves emissions reduction of at least 90 percent.

(B) Operates using management practices at least as stringent as those in Table 1 to this subpart.

(ii) Your gasoline dispensing facility is in compliance with an enforceable State, local, or tribal rule or permit that contains requirements of either paragraph (b)(2)(i)(A) or paragraph (b)(2)(i)(B) of this section.

(c) The emission sources listed in paragraphs (c)(1) through (3) of this section are not required to comply with the control requirements in paragraphs (a) and (b) of this section, but must comply with the requirements in § 63.11116.

(1) Gasoline storage tanks with a capacity of less than 250 gallons that are constructed after January 10, 2008.

(2) Gasoline storage tanks with a capacity of less than 2,000 gallons that were constructed before January 10, 2008.

(3) Gasoline storage tanks equipped with floating roofs, or the equivalent.

(d) Cargo tanks unloading at GDF must comply with the management practices in Table 2 to this subpart.

(e) You must comply with the applicable testing requirements contained in § 63.11120.

(f) You must submit the applicable notifications as required under § 63.11124.

(g) You must keep records and submit reports as specified in §§ 63.11125 and 63.11126.

(h) You must comply with the requirements of this subpart by the applicable dates contained in § 63.11113.

Testing and Monitoring Requirements

§ 63.11120 What testing and monitoring requirements must I meet?

(a) Each owner or operator, at the time of installation of a vapor balance system required under § 63.11118(b)(1), and every 3 years thereafter, must comply with the requirements in paragraphs (a)(1) and (2) of this section.

(1) You must demonstrate compliance with the leak rate and cracking pressure requirements, specified in item 1(g) of Table 1 to this subpart, for pressure-vacuum vent valves installed on your gasoline storage tanks using the test methods identified in paragraph (a)(1)(i) or paragraph (a)(1)(ii) of this section.

(i) California Air Resources Board Vapor Recovery Test Procedure TP-201.1E,—Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003 (incorporated by reference, see § 63.14).

(ii) Use alternative test methods and procedures in accordance with the alternative test method requirements in § 63.7(f).

(2) You must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 1 to this subpart, for your vapor balance system by conducting a static pressure test on your gasoline storage tanks using the test methods identified in paragraph (a)(2)(i) or paragraph (a)(2)(ii) of this section.

(i) California Air Resources Board Vapor Recovery Test Procedure TP-201.3,—Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999 (incorporated by reference, see § 63.14).

(ii) Use alternative test methods and procedures in accordance with the alternative test method requirements in § 63.7(f).

(b) Each owner or operator choosing, under the provisions of § 63.6(g), to use a vapor balance system other than that described in Table 1 to this subpart must demonstrate to the Administrator or delegated authority under paragraph § 63.11131(a) of this subpart, the equivalency of their vapor balance system to that described in Table 1 to this subpart using the procedures specified in paragraphs (b)(1) through (3) of this section.

(1) You must demonstrate initial compliance by conducting an initial performance test on the vapor balance system to demonstrate that the vapor balance system achieves 95 percent reduction using the California Air Resources Board Vapor Recovery Test Procedure TP-201.1,—Volumetric

Efficiency for Phase I Vapor Recovery Systems, adopted April 12, 1996, and amended February 1, 2001, and October 8, 2003, (incorporated by reference, see § 63.14).

(2) You must, during the initial performance test required under paragraph (b)(1) of this section, determine and document alternative acceptable values for the leak rate and cracking pressure requirements specified in item 1(g) of Table 1 to this subpart and for the static pressure performance requirement in item 1(h) of Table 1 to this subpart.

(3) You must comply with the testing requirements specified in paragraph (a) of this section.

Notifications, Records, and Reports

§ 63.11124 What notifications must I submit and when?

(a) Each owner or operator subject to the control requirements in § 63.11117 must comply with paragraphs (a)(1) through (4) of this section.

(1) You must submit an Initial Notification that you are subject to this subpart by May 9, 2008, or at the time you become subject to the control requirements in § 63.11117, unless you meet the requirements in paragraph (a)(3) of this section. The Initial Notification must contain the information specified in paragraphs (a)(1)(i) through (iii) of this section. The notification must be submitted to the applicable EPA Regional Office and delegated State authority as specified in § 63.13.

(i) The name and address of the owner and the operator.

(ii) The address (i.e., physical location) of the GDF.

(iii) A statement that the notification is being submitted in response to this subpart and identifying the requirements in paragraphs (a), (b), and (c)(1) or paragraph (c)(2) of § 63.11117 that apply to you.

(2) You must submit a Notification of Compliance Status to the applicable EPA Regional Office and the delegated State authority, as specified in § 63.13, by the compliance date specified in § 63.11113 unless you meet the requirements in paragraph (a)(3) of this section. The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy and must indicate whether the source has complied with the requirements of this subpart. If your facility is in compliance with the requirements of this subpart at the time the Initial Notification required under paragraph (a)(1) of this section is due, the Notification of Compliance Status may

be submitted in lieu of the Initial Notification provided it contains the information required under paragraph (a)(1) of this section.

(3) If, prior to January 10, 2008, you are operating in compliance with an enforceable State, local, or tribal rule or permit that requires submerged fill as specified in § 63.11117(b), you are not required to submit an Initial Notification or a Notification of Compliance Status under paragraph (a)(1) or paragraph (a)(2) of this section.

(b) Each owner or operator subject to the control requirements in § 63.11118 must comply with paragraphs (b)(1) through (5) of this section.

(1) You must submit an Initial Notification that you are subject to this subpart by May 9, 2008, or at the time you become subject to the control requirements in § 63.11118. The Initial Notification must contain the information specified in paragraphs (b)(1)(i) through (iii) of this section. The notification must be submitted to the applicable EPA Regional Office and the delegated State authority as specified in § 63.13.

(i) The name and address of the owner and the operator.

(ii) The address (i.e., physical location) of the GDF.

(iii) A statement that the notification is being submitted in response to this subpart and identifying the requirements in paragraphs (a) through (d) of § 63.11118 that apply to you.

(2) You must submit a Notification of Compliance Status to the applicable EPA Regional Office and the delegated State authority, as specified in § 63.13, by the compliance date specified in § 63.11113. The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy and must indicate whether the source has complied with the requirements of this subpart. If your facility is in compliance with the requirements of this subpart at the time the Initial Notification required under paragraph (b)(1) of this section is due, the Notification of Compliance Status may be submitted in lieu of the Initial Notification provided it contains the information required under paragraph (b)(1) of this section.

(3) If, prior to January 10, 2008, you satisfy the requirements in both paragraphs (b)(3)(i) and (ii) of this section, you are not required to submit an Initial Notification or a Notification of Compliance Status under paragraph (b)(1) or paragraph (b)(2) of this subsection.

(i) You operate a vapor balance system at your gasoline dispensing facility that meets the requirements of

either paragraphs (b)(3)(i)(A) or (b)(3)(i)(B) of this section.

(A) Achieves emissions reduction of at least 90 percent.

(B) Operates using management practices at least as stringent as those in Table 1 to this subpart.

(ii) Your gasoline dispensing facility is in compliance with an enforceable State, local, or tribal rule or permit that contains requirements of either paragraphs (b)(3)(i)(A) or (b)(3)(i)(B) of this section.

(4) You must submit a Notification of Performance Test, as specified in § 63.9(e), prior to initiating testing required by § 63.11120(a) and (b).

(5) You must submit additional notifications specified in § 63.9, as applicable.

§ 63.11125 What are my recordkeeping requirements?

(a) Each owner or operator subject to the management practices in § 63.11118 must keep records of all tests performed under § 63.11120(a) and (b).

(b) Records required under paragraph (a) of this section shall be kept for a period of 5 years and shall be made available for inspection by the Administrator's delegated representatives during the course of a site visit.

§ 63.11126 What are my reporting requirements?

Each owner or operator subject to the management practices in § 63.11118 shall report to the Administrator the results of all volumetric efficiency tests required under § 63.11120(b). Reports submitted under this paragraph must be submitted within 180 days of the completion of the performance testing.

Other Requirements and Information

§ 63.11130 What parts of the General Provisions apply to me?

Table 3 to this subpart shows which parts of the General Provisions apply to you.

§ 63.11131 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as the applicable State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or tribal agency.

(c) The authorities that cannot be delegated to State, local, or tribal agencies are as specified in paragraphs (c)(1) through (3) of this section.

(1) Approval of alternatives to the requirements in §§ 63.11116 through 63.11118 and 63.11120.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

§ 63.11132 What definitions apply to this subpart?

As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act (CAA), or in subparts A and BBBBBB of this part. For purposes of this subpart, definitions in this section supersede definitions in other parts or subparts.

Dual-point vapor balance system means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

Gasoline cargo tank means a delivery tank truck or railcar which is loading gasoline or which has loaded gasoline on the immediately previous load.

Gasoline dispensing facility (GDF) means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle.

Monthly throughput means the total volume of gasoline that is loaded into all gasoline storage tanks during a month, as calculated on a rolling 30-day average.

Submerged filling means, for the purposes of this subpart, the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in § 63.11117(b) from the bottom of the tank. Bottom filling of gasoline storage tanks is included in this definition.

Vapor balance system means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

Vapor-tight means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.

TABLE 1 TO SUBPART CCCCC OF PART 63.—APPLICABILITY CRITERIA AND MANAGEMENT PRACTICES FOR GASOLINE DISPENSING FACILITIES WITH MONTHLY THROUGHPUT OF 100,000 GALLONS OF GASOLINE OR MORE

If you own or operate	Then you must
1. A new, reconstructed, or existing GDF subject to § 63.11118.	Install and operate a vapor balance system on your gasoline storage tanks that meets the design criteria in paragraphs (a) through (h). (a) All vapor connections and lines on the storage tank shall be equipped with closures that seal upon disconnect. (b) The vapor line from the gasoline storage tank to the gasoline cargo tank shall be vapor-tight, as defined in § 63.11132. (c) The vapor balance system shall be designed such that the pressure in the tank truck does not exceed 18 inches water pressure or 5.9 inches water vacuum during product transfer. (d) The vapor recovery and product adaptors, and the method of connection with the delivery elbow, shall be designed so as to prevent the over-tightening or loosening of fittings during normal delivery operations.

TABLE 1 TO SUBPART CCCCCC OF PART 63.—APPLICABILITY CRITERIA AND MANAGEMENT PRACTICES FOR GASOLINE DISPENSING FACILITIES WITH MONTHLY THROUGHPUT OF 100,000 GALLONS OF GASOLINE OR MORE—Continued

If you own or operate	Then you must
<p>2. For new or reconstructed GDF, or new storage tank(s) at an existing affected facility subject to § 63.11118.</p>	<p>(e) If a gauge well separate from the fill tube is used, it shall be provided with a submerged drop tube that extends the same distance from the bottom of the storage tank as specified in § 63.11117(b).</p> <p>(f) Liquid fill connections for all systems shall be equipped with vapor-tight caps.</p> <p>(g) Pressure/vacuum vent valves shall be installed on the storage tank vent pipes. For systems where vapors from vehicle refueling operations are not recovered, the positive cracking pressure shall be 13.8 inches of water and the negative cracking pressure shall be 6.9 inches of water. For systems where vapors from vehicle refueling operations are recovered (Stage II controls), the positive cracking pressure shall be 3 inches of water and the negative cracking pressure shall be 8 inches of water. Deviations of within ± 0.5 inches of the specified positive cracking pressures and ± 2.0 inches of the negative pressure are acceptable. The leak rates for pressure/vacuum valves, including connections, shall be less than or equal to 0.17 cubic foot per hour at a pressure of 2.0 inches of water and 0.21 cubic foot per hour at a vacuum of 4 inches of water.</p> <p>(h) The vapor balance system shall be capable of meeting the static pressure performance requirement of the following equation: $Pf = 2e^{-500.887/v}$ Where: Pf = Minimum allowable final pressure, inches of water. v = Total ullage affected by the test, gallons. e = Dimensionless constant equal to approximately 2.718. 2 = The initial pressure, inches water.</p> <p>Equip your gasoline storage tanks with a dual-point vapor balance system, as defined in § 63.11132, and comply with the requirements of item 1 in this Table.</p>

TABLE 2 TO SUBPART CCCCCC OF PART 63.—APPLICABILITY CRITERIA AND MANAGEMENT PRACTICES FOR GASOLINE CARGO TANKS UNLOADING AT GASOLINE DISPENSING FACILITIES WITH MONTHLY THROUGHPUT OF 100,000 GALLONS OF GASOLINE OR MORE

If you own or operate	Then you must
<p>A gasoline cargo tank</p>	<p>Not unload gasoline into a storage tank at a GDF subject to the control requirements in this subpart unless the following conditions are met:</p> <p>(i) All hoses in the vapor balance system are properly connected,</p> <p>(ii) The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect,</p> <p>(iii) All vapor return hoses, couplers, and adapters used in the gasoline delivery are vapor-tight,</p> <p>(iv) All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment on the GDF storage tank, and</p> <p>(v) All hatches on the tank truck are closed and securely fastened.</p> <p>(vi) The filling of storage tanks at GDF shall be limited to unloading by vapor-tight gasoline cargo tanks. Documentation that the cargo tank has met the specifications of EPA Method 27 shall be carried on the cargo tank.</p>

TABLE 3 TO SUBPART CCCCCC OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS

Citation	Subject	Brief description	Applies to subpart CCCCCC
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes, specific requirements given in § 63.11111.
§ 63.1(c)(2)	Title V Permit	Requirements for obtaining a title V permit from the applicable permitting authority.	Yes, § 63.11111(f) of subpart CCCCCC exempts identified area sources from the obligation to obtain title V operating permits.
§ 63.2	Definitions	Definitions for part 63 standards	Yes, additional definitions in § 63.11132.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; Circumvention, severability	Yes.
§ 63.5	Construction/Reconstruction.	Applicability; applications; approvals	Yes.

TABLE 3 TO SUBPART CCCCC OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart CCCCC
§ 63.6(a)	Compliance with Standards/Operation & Maintenance—Applicability.	General Provisions apply unless compliance extension; General Provisions apply to area sources that become major.	Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	No.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in this subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	No, § 63.11113 specifies the compliance dates.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources That become major must comply with major source standards by date indicated in this subpart or by equivalent time period (e.g., 3 years).	No.
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)	Operation & Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; and operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction (SSM) Plan.	Requirement for SSM plan; content of SSM plan; actions during SSM.	No.
§ 63.6(f)(1)	Compliance Except During SSM.	You must comply with emission standards at all times except during SSM.	No.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)(1)	Compliance with Opacity/Visible Emission (VE) Standards.	You must comply with opacity/VE standards at all times except during SSM.	No.
§ 63.6(h)(2)(i)	Determining Compliance with Opacity/VE Standards.	If standard does not State test method, use EPA Method 9 for opacity in appendix A of part 60 of this chapter and EPA Method 22 for VE in appendix A of part 60 of this chapter.	No.
§ 63.6(h)(2)(ii)	[Reserved].		
§ 63.6(h)(2)(iii)	Using Previous Tests To Demonstrate Compliance With Opacity/VE Standards.	Criteria for when previous opacity/VE testing can be used to show compliance with this subpart.	No.
§ 63.6(h)(3)	[Reserved].		
§ 63.6(h)(4)	Notification of Opacity/VE Observation Date.	Must notify Administrator of anticipated date of observation.	No.
§ 63.6(h)(5)(i), (iii)–(v)	Conducting Opacity/VE Observations.	Dates and schedule for conducting opacity/VE observations.	No.
§ 63.6(h)(5)(ii)	Opacity Test Duration and Averaging Times.	Must have at least 3 hours of observation with 30 6-minute averages.	No.
§ 63.6(h)(6)	Records of Conditions During Opacity/VE Observations.	Must keep records available and allow Administrator to inspect.	No.
§ 63.6(h)(7)(i)	Report Continuous Opacity Monitoring System (COMS) Monitoring Data From Performance Test.	Must submit COMS data with other performance test data.	No.
§ 63.6(h)(7)(ii)	Using COMS Instead of EPA Method 9.	Can submit COMS data instead of EPA Method 9 results even if rule requires EPA Method 9 in appendix A of part 60 of this chapter, but must notify Administrator before performance test.	No.
§ 63.6(h)(7)(iii)	Averaging Time for COMS During Performance Test.	To determine compliance, must reduce COMS data to 6-minute averages.	No.

TABLE 3 TO SUBPART CCCCC OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart CCCCC
§ 63.6(h)(7)(iv)	COMS Requirements	Owner/operator must demonstrate that COMS performance evaluations are conducted according to § 63.8(e); COMS are properly maintained and operated according to § 63.8(c) and data quality as § 63.8(d).	No.
§ 63.6(h)(7)(v)	Determining Compliance with Opacity/VE Standards.	COMS is probable but not conclusive evidence of compliance with opacity standard, even if EPA Method 9 observation shows otherwise. Requirements for COMS to be probable evidence-proper maintenance, meeting Performance Specification 1 in appendix B of part 60 of this chapter, and data have not been altered.	No.
§ 63.6(h)(8)	Determining Compliance with Opacity/VE Standards.	Administrator will use all COMS, EPA Method 9 (in appendix A of part 60 of this chapter), and EPA Method 22 (in appendix A of part 60 of this chapter) results, as well as information about operation and maintenance to determine compliance.	No.
§ 63.6(h)(9)	Adjusted Opacity Standard	Procedures for Administrator to adjust an opacity standard.	No.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt any source from requirement to comply with this subpart.	Yes.
§ 63.7(a)(2)	Performance Test Dates ...	Dates for conducting initial performance testing; must conduct 180 days after compliance date.	Yes.
§ 63.7(a)(3)	CAA Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test	Yes.
§ 63.7(b)(2)	Notification of Re-scheduling.	If have to reschedule performance test, must notify Administrator of rescheduled date as soon as practicable and without delay.	Yes.
§ 63.7(c)	Quality Assurance (QA)/ Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM.	Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to this subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an intermediate or major change, or alternative to a test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status; keep data for 5 years.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring of Flares	Monitoring requirements for flares in § 63.11 apply	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.

TABLE 3 TO SUBPART CCCCC OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart CCCCC
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each affected source or after combined with another affected source before it is released to the atmosphere provided the monitoring is sufficient to demonstrate compliance with the standard; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	No.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	No.
§ 63.8(c)(1)(i)–(iii)	Routine and Predictable SSM.	Follow the SSM plan for routine repairs; keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan.	No.
§ 63.8(c)(2)–(8)	Continuous Monitoring System (CMS) Requirements.	Must install to get representative emission or parameter measurements; must verify operational status before or at performance test.	No.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions.	No.
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports	No.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	No.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for continuous emissions monitoring system (CEMS).	No.
§ 63.8(g)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1 hour averages computed over at least 4 equally spaced data points; data that cannot be used in average.	No.
§ 63.9(a)	Notification Requirements	Applicability and State delegation	Yes.
§ 63.9(b)(1)–(2), (4)–(5)	Initial Notifications	Submit notification within 120 days after effective date; notification of intent to construct/reconstruct, notification of commencement of construction/reconstruction, notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed best available control technology or lowest achievable emission rate.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Sources.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test.	Notify Administrator 30 days prior	No.
§ 63.9(g)	Additional Notifications when Using CMS.	Notification of performance evaluation; notification about use of COMS data; notification that exceeded criterion for relative accuracy alternative.	Yes, however, there are no opacity standards.
§ 63.9(h)(1)–(6)	Notification of Compliance Status.	Contents due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes, however, there are no opacity standards.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than one source.	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i)–(iv)	Records Related to SSM	Occurrence of each for operations (process equipment); occurrence of each malfunction of air pollution control equipment; maintenance on air pollution control equipment; actions during SSM.	No.
§ 63.10(b)(2)(vi)–(xi)	CMS Records	Malfunctions, inoperative, out-of-control periods	No.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.

TABLE 3 TO SUBPART CCCCC OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS—Continued

Citation	Subject	Brief description	Applies to subpart CCCCC
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)	Records	Additional records for CMS	No.
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	No.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	SSM Reports	Contents and submission	Yes.
§ 63.10(e)(1)–(2)	Additional CMS Reports	Must report results for each CEMS on a unit; written copy of CMS performance evaluation; two-three copies of COMS performance evaluation.	No.
§ 63.10(e)(3)(i)–(iii)	Reports	Schedule for reporting excess emissions	Yes, note that § 63.11130(K) specifies excess emission events for this subpart.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedances (now defined as deviations); provision to request semiannual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emissions (now defined as deviations), report contents in a statement that there have been no deviations; must submit report containing all of the information in §§ 63.8(c)(7)–(8) and 63.10(c)(5)–(13).	No, § 63.11130(K) specifies excess emission events for this subpart.
§ 63.10(e)(3)(vi)–(viii)	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMS; requires all of the information in §§ 63.10(c)(5)–(13) and 63.8(c)(7)–(8).	No.
§ 63.10(e)(4)	Reporting COMS Data	Must submit COMS data with performance test data ...	No.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11(b)	Flares	Requirements for flares	No.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporations by Reference.	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information ..	Public and confidential information	Yes.

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