



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 63**

**[EPA-HQ-OAR-2022-0787; FRL-9846-01-OAR]**

**RIN 2060-AV80**

### **National Emission Standards for Hazardous Air Pollutants: Ethylene Production, Miscellaneous Organic Chemical Manufacturing, Organic Liquids Distribution (Non-Gasoline), and Petroleum Refineries Reconsideration**

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

**ACTION:** Proposed rule; reconsideration of final rule.

**SUMMARY:** On July 6, 2020, the U.S. Environmental Protection Agency (EPA) finalized the residual risk and technology review (RTR) conducted for the Ethylene Production source category, which is part of the Generic Maximum Achievable Control Technology (GMACT) Standards National Emission Standards for Hazardous Air Pollutants (NESHAP); on July 7, 2020, the EPA finalized the RTR conducted for the Organic Liquids Distribution (Non-Gasoline) NESHAP; and on August 12, 2020, the EPA finalized the RTR conducted for the Miscellaneous Organic Chemical Manufacturing NESHAP. Amendments to the Petroleum Refineries NESHAP were most recently finalized on February 4, 2020. Subsequently, the EPA received and granted various petitions for reconsideration on these NESHAP for, among other things, the provisions related to the work practice standards for pressure relief devices (PRDs), emergency flaring, and degassing of floating roof storage vessels. In response to the petitions, the EPA is proposing amendments to the work practice standards for PRDs, emergency flaring, and degassing of floating roof storage vessels. In addition, the EPA is proposing other technical corrections and clarifications for each of the rules. The EPA will not respond to comments addressing any other issues or any other provisions of the final rule not specifically addressed in this proposed rulemaking.

**DATES:** *Comments.* Comments must be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

*Public hearing.* If anyone contacts us requesting a public hearing on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-HQ-OAR-2022-0787, by any of the following methods:

Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).

Follow the online instructions for submitting comments.

Email: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2022-0787 in the subject line of the message.

Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2022-0787.

Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2022-0787, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

Hand/Courier Delivery: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal holidays).

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and

additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For questions about this proposed action, contact Ms. Angie Carey, Sector Policies and Programs Division (E143-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2187; fax number: (919) 541-0516; and email address: [carey.angela@epa.gov](mailto:carey.angela@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Participation in virtual public hearing.* To request a virtual hearing, contact the public hearing team at (888) 372-8699 or by email at [SPPDpublichearing@epa.gov](mailto:SPPDpublichearing@epa.gov). If requested, the hearing will be held via virtual platform on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The hearing will convene at 10 a.m., Eastern Time (ET) and conclude at 5 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are not additional speakers. The EPA will announce further details on the virtual public hearing website at <https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-rule-risk-and-technology-review-and-new>.

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing no later than 1 business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-rule-risk-and-technology-review-and-new> or contact the public hearing team at (888) 372-8699 or by email at

*SPPDpublichearing@epa.gov*. The last day to pre-register to speak at the hearing will be **[INSERT DATE 12 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at <https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-rule-risk-and-technology-review-and-new>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

Each commenter will have 4 minutes to provide oral testimony. The EPA encourages commenters to submit a copy of their oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-rule-risk-and-technology-review-and-new>. While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the *Federal Register* announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may not be able to arrange accommodations without advance notice.

*Docket.* The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2022-0787. All documents in the docket are listed in <https://www.regulations.gov/>. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in <https://www.regulations.gov/> or in hard copy at the EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue 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, and the telephone number for the EPA Docket Center is (202) 566-1742.

*Instructions.* Direct your comments to Docket ID No. EPA-HQ-OAR-2022-0787. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov/>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to <https://www.regulations.gov/> any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit

<https://www.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov/> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov/>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

*Submitting CBI.* Do not submit information containing CBI to the EPA through <https://www.regulations.gov/>. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked

as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.*, Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the Office of Air Quality Planning and Standards (OAQPS) CBI Office at the email address *oaqpscbi@epa.gov* and, as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2022-0787. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

*Preamble acronyms and abbreviations.* Throughout this document the use of “we,” “us,” or “our” is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here: {\*\*\* WILL NEED TO REVIEW LIST LATER IN THE PROCESS, DELETE UNUSED ACRONYMS, ADD OTHER COMMONLY USED ACRONYMS}

|                         |                                                   |
|-------------------------|---------------------------------------------------|
| atm-m <sup>3</sup> /mol | atmospheres per mole per cubic meter              |
| ACC                     | American Chemistry Council                        |
| AFPM                    | American Fuels and Petrochemicals Manufacturers   |
| AMEL                    | alternative means of emissions limitation         |
| API                     | American Petroleum Institute                      |
| CAA                     | Clean Air Act                                     |
| CBI                     | Confidential Business Information                 |
| CDX                     | Central Data Exchange                             |
| CEDRI                   | Compliance and Emissions Data Reporting Interface |
| CEMS                    | continuous emission monitoring systems            |

|        |                                                           |
|--------|-----------------------------------------------------------|
| CFR    | Code of Federal Regulations                               |
| EMACT  | Ethylene Production MACT                                  |
| EPA    | Environmental Protection Agency                           |
| ET     | Eastern Time                                              |
| GMACT  | Generic Maximum Achievable Control Technology             |
| HAP    | hazardous air pollutant(s)                                |
| LEL    | lower explosive limit                                     |
| MACT   | maximum achievable control technology                     |
| MCPU   | miscellaneous organic chemical manufacturing process unit |
| MON    | Miscellaneous Organic Chemical Manufacturing NESHAP       |
| NESHAP | national emission standards for hazardous air pollutants  |
| NOCS   | notification of compliance status                         |
| NTTAA  | National Technology Transfer and Advancement Act          |
| OLD    | Organic Liquids Distribution (Non-Gasoline)               |
| OMB    | Office of Management and Budget                           |
| ppm    | parts per million                                         |
| ppmw   | parts per million by weight                               |
| PRA    | Paperwork Reduction Act                                   |
| PRD    | pressure relief device                                    |
| RFA    | Regulatory Flexibility Act                                |
| RTR    | risk and technology review                                |
| SSM    | startup, shutdown, and malfunction                        |
| TCEQ   | Texas Commission on Environmental Quality                 |
| UMRA   | Unfunded Mandates Reform Act                              |
| U.S.   | United States                                             |

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

## **I. General Information**

- A. What is the source of authority for the reconsideration action?
- B. Does this action apply to me?
- C. Where can I get a copy of this document and other related information?

## **II. Background**

- A. Ethylene Production
- B. Organic Liquids Distribution (Non-Gasoline)
- C. Miscellaneous Organic Chemical Manufacturing
- D. Petroleum Refineries

## **III. Reconsideration Issues, Request for Public Comments, and Other Proposed Changes**

- A. Pressure Relief Devices and Emergency Flaring
- B. Storage Vessel Degassing
- C. Other Technical Corrections and Clarifications
- D. What compliance dates are we proposing?



#### **IV. Summary of Cost, Environmental, and Economic Impacts**

- A. What are the affected facilities?
- B. What are the air quality impacts?
- C. What are the cost impacts?
- D. What are the economic impacts?
- E. What are the benefits?
- F. What analysis of environmental justice did we conduct?

#### **V. Statutory and Executive Order Reviews**

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- 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 (NTTAA) and 1 CFR part 51
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

#### **I. General Information**

##### *A. What is the source of authority for the reconsideration action?*

The statutory authority for this action is provided by sections 112 and 307(d)(7)(B) of the Clean Air Act (CAA) (42 U.S.C. 7412 and 7607(d)(7)(B)).

##### *B. Does this action apply to me?*

Table 1 of this preamble lists the NESHAP and associated regulated industrial source categories that are the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. Each of the source categories covered by this proposal were defined in the

*Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576; July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA-450/3-91-030, July 1992), as well as the *National Emission Standards for Hazardous Air Pollutants; Revision of Initial List of Categories of Sources and Schedule for Standards Under Sections 112(c) and (e) of the Clean Air Act Amendments of 1990* (61 FR 28197; June 4, 1996), as presented here.

**Table 1. NESHAP and Industrial Source Categories Affected By This Proposed Action**

| Source Category                              | NESHAP                             | NAICS <sup>1</sup> Code                                                            |
|----------------------------------------------|------------------------------------|------------------------------------------------------------------------------------|
| Ethylene Production                          | 40 CFR part 63, subparts XX and YY | 325110                                                                             |
| Miscellaneous Organic Chemical Manufacturing | 40 CFR part 63, subpart FFFF       | 3251, 3252, 3253, 3254, 3255, 3256, and 3259, with several exceptions              |
| Organic Liquids Distribution (Non-Gasoline)  | 40 CFR part 63, subpart EEEE       | 3222, 3241, 3251, 3252, 3259, 3261, 3361, 3362, 3399, 4247, 4861, 4869, 4931, 5622 |
| Petroleum Refineries                         | 40 CFR part 63, subpart CC         | 324110                                                                             |

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

The Ethylene Production source category includes any chemical manufacturing process unit in which ethylene and/or propylene are produced by separation from petroleum refining process streams or by subjecting hydrocarbons to high temperatures in the presence of steam. The ethylene production unit includes the separation of ethylene and/or propylene from associated streams such as a C<sub>4</sub> product,<sup>1</sup> pyrolysis gasoline, and pyrolysis fuel oil. The ethylene production unit does not include the manufacture of Synthetic Organic Chemical Manufacturing Industry (SOCMI) chemicals such as the production of butadiene from the C<sub>4</sub> stream and aromatics from pyrolysis gasoline.

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<sup>1</sup> The C<sub>4</sub> product stream is a hydrocarbon product stream from an ethylene production unit consisting of compounds with 4 carbon atoms (*i.e.*, butanes, butenes, butadienes).

The Organic Liquids Distribution (Non-Gasoline) source category includes, but is not limited to, those activities associated with the storage and distribution of organic liquids other than gasoline, at sites which serve as distribution points from which organic liquids may be obtained for further use and processing. The distribution activities include the storage of organic liquids in storage tanks not subject to other 40 CFR part 63 standards and transfers into or out of the tanks from or to cargo tanks, containers, and pipelines.

After the initial source category listings, in a November 7, 1996, document (61 FR 57602), the Agency combined 21 of the 174 originally defined source categories, and other organic chemical processes which were not included in the original 174 source category list, into one source category called the “Miscellaneous Organic Chemical Processes” source category. In a November 18, 1999, document (64 FR 63035), the Agency divided the “Miscellaneous Organic Chemical Processes” source category into 2 new source categories called the “Miscellaneous Organic Chemical Manufacturing” source category and the “Miscellaneous Coating Manufacturing” source category. The Miscellaneous Organic Chemical Manufacturing source category includes any facility engaged in the production of benzyltrimethylammonium chloride, carbonyl sulfide chelating agents, chlorinated paraffins, ethylidene norbornene, explosives, hydrazine, photographic chemicals, phthalate plasticizers, rubber chemicals, symmetrical tetrachloropyridine, oxybisphenoxarsine/1,3-diisocyanate, alkyd resins, polyester resins, polyvinyl alcohol, polyvinyl acetate emulsions, polyvinyl butyral, polymerized vinylidene chloride, polymethyl methacrylate, maleic anhydride copolymers, or any other organic chemical processes not covered by another maximum achievable control technology (MACT) standard. Many of these organic chemical processes involve similar process equipment, emission points, and control equipment, and are in many cases collocated with other source categories.

The Petroleum Refineries sector includes 2 source categories. The Petroleum Refineries MACT 1 source category includes any facility engaged in producing gasoline, naphthas, kerosene, jet fuels, distillate fuel oils, residual fuel oils, lubricants, or other products from crude

oil or unfinished petroleum derivatives. The refinery process units in this source category include, but are not limited to, thermal cracking, vacuum distillation, crude distillation, hydroheating/hydrorefining, isomerization, polymerization, lubricating (“lube”) oil processing, and hydrogen production. The Petroleum Refineries MACT 2 – Catalytic Cracking (Fluid and Other) Units, Catalytic Reforming Units, and Sulfur Recovery Units source category includes any facility engaged in producing gasoline, naphthas, kerosene, jet fuels, distillate fuel oils, residual fuel oils, lubricants, or other products from crude oil or unfinished petroleum derivatives.

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

In addition to being available in the docket, an electronic copy of this action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-rule-risk-and-technology-review-and-new>, <https://www.epa.gov/stationary-sources-air-pollution/acetal-resins-acrylic-modacrylic-fibers-carbon-black-hydrogen>, <https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-organic-chemical-manufacturing-national-emission>, and <https://www.epa.gov/stationary-sources-air-pollution/organic-liquids-distribution-national-emission-standards-hazardous>. Following publication in the *Federal Register*, the EPA will post the *Federal Register* version of the proposal and key technical documents at this same website.

Redline strikeout versions of each rule showing the edits that would be necessary to incorporate the changes proposed in this action are presented in the memoranda titled *Proposed Regulatory Text Edits for Subpart EEEE*, *Proposed Regulatory Text Edits for Subpart FFFF*, *Proposed Regulatory Text Edits for Subpart YY*, and *Proposed Regulatory Text Edits for Subpart CC*, available in the docket for this action (Docket ID No. EPA-HQ-OAR-2022-0787).

## **II. Background**

### *A. Ethylene Production*

The Ethylene Production MACT standards (herein called the EMACT standards) for the Ethylene Production source category are contained in the GMACT NESHAP, which also includes MACT standards for several other source categories. The EMACT standards were promulgated on July 12, 2002 (67 FR 46258), and codified at 40 CFR part 63, subparts XX and YY. As promulgated in 2002, and further amended on April 13, 2005 (70 FR 19266), and July 6, 2020 (85 FR 40386), the EMACT standards regulate hazardous air pollutant (HAP) emissions from ethylene production units located at major sources (as defined by CAA section 112(a)(1)). An ethylene production unit is a chemical manufacturing process unit in which ethylene and/or propylene are produced by separation from petroleum refining process streams or by subjecting hydrocarbons to high temperatures in the presence of steam. The EMACT standards define the affected source as all storage vessels, ethylene process vents, transfer racks, equipment, waste streams, heat exchange systems, and ethylene cracking furnaces and associated decoking operations that are associated with each ethylene production unit located at a major source as defined in CAA section 112(a)(1).

Following promulgation of the EMACT standards in July 2020, the EPA received 2 petitions for reconsideration in September 2020. The EPA received a joint petition from the American Chemistry Council (ACC) and American Fuel & Petrochemical Manufacturers (AFPM) and a petition from Earthjustice (on behalf of RISE St. James, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Texas Environmental Justice Advocacy Services, Air Alliance Houston, Community In-Power & Development Association, Clean Air Council, Center for Biological Diversity, Environmental Integrity Project, and Sierra Club). Copies of the petitions are provided in the EMACT RTR rulemaking docket (EPA-HQ-OAR-2017-0357). The ACC/AFPM petitioned the EPA on, among other things, the storage vessel degassing provisions, ethylene cracking furnace burner repair provisions, and ethylene cracking furnace isolation valve inspections. Earthjustice petitioned the EPA on, among other things, the

*force majeure* and exemption allowances for PRDs and emergency flaring. The ACC/AFPM and Earthjustice also raised other issues that are not being addressed in this rulemaking.

On April 19, 2022, the EPA sent a letter to petitioners informing them that it would grant reconsideration of the provisions addressing the work practice standards for PRDs, emergency flaring, and degassing of floating roof storage vessels. The EPA also stated in the letter to petitioners that it is continuing to review all issues raised in the petitions. A copy of the letter to petitioners is available in the docket for this rulemaking. The EPA will not respond to comments addressing any other issues or any other provisions of the final rule not specifically addressed in this proposed rulemaking.

#### *B. Organic Liquids Distribution (Non-Gasoline)*

The Organic Liquids Distribution (Non-Gasoline) (herein called OLD) NESHAP was promulgated on February 3, 2004 (69 FR 5038) and is codified at 40 CFR part 63, subpart EEEE. Organic liquids are any crude oils downstream of the first point of custody transfer and any non-crude oil liquid that contains at least 5 percent by weight of any combination of the 98 HAP listed in table 1 of 40 CFR part 63, subpart EEEE. For the purposes of the OLD NESHAP, as promulgated in 2004, and further amended on July 28, 2006 (71 FR 42898), April 23, 2008 (73 FR 21825), July 17, 2008 (73 FR 40977), and July 7, 2020 (85 FR 40740), organic liquids do not include gasoline, kerosene (No. 1 distillate oil), diesel (No. 2 distillate oil), asphalt, heavier distillate oil and fuel oil, fuel that is consumed or dispensed on the plant site, hazardous waste, wastewater, ballast water, or any non-crude liquid with an annual average true vapor pressure less than 0.7 kilopascals (0.1 pounds per square inch (psi)). Emission sources controlled by the OLD NESHAP are storage tanks, transfer operations, transport vehicles while being loaded, and equipment leak components (valves, pumps, and sampling connections) that have the potential to leak.

The EPA received three petitions for reconsideration for the OLD NESHAP in September 2020. The EPA received petitions from the American Petroleum Institute (API) and AFPM,

Stoel Rives LLP (on behalf of Alyeska Pipeline Company), and Earthjustice (on behalf of California Communities Against Toxics, Coalition for a Safe Environment, and Sierra Club). Copies of the petitions are provided in the docket for this rulemaking. The API/AFPM and Stoel Rives LLP (on behalf of Alyeska Pipeline Company) commented on storage vessel degassing. The API/AFPM, Stoel Rives, and Earthjustice also raised other issues that are not being addressed in this rulemaking.

On September 8, 2021, the EPA sent a letter to petitioners informing them that it would grant voluntary reconsideration on certain issues, including the work practice standards for storage vessel degassing that apply broadly. Other issues for which EPA stated that it would grant voluntary reconsideration in the September 8, 2021, letter (*i.e.*, work practice standards for venting from conservation vents on the Valdez Marine Terminal's crude oil fixed roof tanks, fence-line monitoring) are still being reviewed and are not part of this action, and the EPA will not respond to comments addressing these other issues in this proposed rulemaking. The EPA also stated in the letter to petitioners that it is continuing to review all issues raised in the petitions. A copy of the letter to petitioners is available in the docket for this rulemaking.

### *C. Miscellaneous Organic Chemical Manufacturing*

The Miscellaneous Organic Chemical Manufacturing NESHAP (herein called the MON) for the Miscellaneous Organic Chemical Manufacturing source category was promulgated on November 10, 2003 (68 FR 63852), and codified at 40 CFR part 63, subpart FFFF. As promulgated in 2003, and further amended on July 1, 2005 (70 FR 38562), July 14, 2006 (71 FR 40316), and August 12, 2020 (85 FR 49084), the MON regulates HAP emissions from miscellaneous organic chemical manufacturing process units (MCPUs) located at major sources. An MCU includes a miscellaneous organic chemical manufacturing process, as defined in 40 CFR 63.2550(i), and must meet the following criteria: it manufactures any material or family of materials described in 40 CFR 63.2435(b)(1); it processes, uses, or generates any of the organic HAP described in 40 CFR 63.2435(b)(2); and, except for certain process vents that are part of a

chemical manufacturing process unit, as identified in 40 CFR 63.100(j)(4), the MCPU is not an affected source or part of an affected source under another subpart of 40 CFR part 63. An MCPU also includes any assigned storage tanks and transfer racks; equipment in open systems that is used to convey or store water having the same concentration and flow characteristics as wastewater; and components such as pumps, compressors, agitators, PRDs, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems that are used to manufacture any material or family of materials described in 40 CFR 63.2435(b)(1). Sources of HAP emissions regulated by the MON include the following: process vents, storage tanks, transfer racks, equipment leaks, wastewater streams, and heat exchange systems.

Following promulgation of the MON in August 2020, the EPA received five petitions for reconsideration between October and December 2020. The EPA received petitions from Earthjustice (on behalf of RISE St. James, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Texas Environmental Justice Advocacy Services, Air Alliance Houston, Ohio Valley Environmental Coalition, Blue Ridge Environmental Defense League, Environmental Justice Health Alliance for Chemical Policy Reform, Sierra Club, Environmental Integrity Project, and Union of Concerned Scientists), the Texas Commission on Environmental Quality (TCEQ), Squire Patton Boggs LLP (on behalf of Huntsman Petrochemical, LLC), and the ACC (who submitted two petitions). Copies of the petitions are provided in the docket for this rulemaking. The ACC petitioned the EPA on, among other things, the storage vessel degassing provisions and requirements for ethylene oxide sources. Earthjustice petitioned the EPA on, among other things, the *force majeure* and exemption allowances for PRDs and emergency flaring. The TCEQ, ACC, and Huntsman Petrochemical requested that the EPA reassess the MON risk assessment for issues around ethylene oxide risks; the EPA is responding to that reconsideration petition request in a separate rulemaking (87 FR 77985; December 21, 2022). Earthjustice and ACC also raised other issues that are not being addressed in this rulemaking.



On June 17, 2021, the EPA sent a letter to petitioners informing them that it is continuing to review all issues raised in the petitions. A copy of the letter to petitioners is available in the docket for this rulemaking.

#### *D. Petroleum Refineries*

On December 1, 2015 (80 FR 75178), the EPA finalized amendments to the petroleum refinery sector rules as the result of a sector RTR. These amendments included, among other provisions, adding work practice requirements to Petroleum Refinery MACT 1 (40 CFR part 63 subpart CC) for PRDs and flares in 40 CFR 63.648(j) and 63.670(o), respectively. These provisions specifically provide requirements for owners and operators to follow in the event of an atmospheric PRD release or emergency flaring event, including performing root cause analysis for each event and implementing corrective action(s) in accordance with the rule requirements. The atmospheric PRD release and emergency flaring provisions specify the conditions that result in a violation of the work practice standards in 40 CFR 63.648(j)(3)(v) and 63.670(o)(7), respectively. The owner or operator is required to track the number of events by emission unit and root cause. An atmospheric PRD release or emergency flaring event for which the root cause is determined to be poor maintenance or operator error is a violation of the work practice standards. Two atmospheric PRD releases or two emergency flaring events from the same emission unit when determined to be the result of the same root cause in a 3-year period is a violation of the work practice standard. Finally, three atmospheric PRD releases or 3 emergency flaring events from the same emission unit regardless of the root cause is a violation of the work practice standard (also referred to as “the ‘three strikes’ provisions”). Notably, if the root cause is determined to be due to a *force majeure* event, as defined in 40 CFR 63.641, it does not count towards the criteria for a violation of the work practice standards.

The EPA received three petitions to reconsider the December 2015 final rule. Two petitions were filed on January 19, 2016, and February 1, 2016, jointly by API and the AFPM. In response to the January 19, 2016, petition, the EPA issued a proposal on February 9, 2016 (81

FR 6814), and a final rule on July 13, 2016 (81 FR 45232), fully responding to the January 19, 2016, petition for reconsideration. The third petition was filed on February 1, 2016, by Earthjustice on behalf of Air Alliance Houston, California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power & Development Association, Del Amo Action Committee, Environmental Integrity Project, Louisiana Bucket Brigade, Sierra Club, Texas Environmental Justice Advocacy Services, and Utah Physicians for a Healthy Environment. The Earthjustice petition claimed that several aspects of the revisions to the Petroleum Refinery MACT 1 were not proposed and that, therefore, the public was precluded from commenting on the altered provisions during the public comment period, including, among other provisions, the work practice standards for PRDs and emergency flaring. On June 16, 2016, the EPA sent letters to petitioners granting reconsideration on issues where petitioners claimed they had not been provided an opportunity to comment. These petitions and letters granting reconsideration are available for review in the rulemaking docket (see Docket ID Item No. EPA-HQ-OAR-2022-0787). On October 18, 2016 (81 FR 71661), the EPA proposed for public comment the issues for which reconsideration was granted in the June 16, 2016, letters. The EPA solicited public comment on five issues in the proposal, including: the work practice standard for PRDs; the work practice standard for emergency flaring events; and the assessment of risk as modified based on implementation of these PRD and emergency flaring work practice standards. On February 4, 2020, the EPA issued a final action (85 FR 6064) setting forth its decisions on each of the five reconsideration items included in the October 18, 2016 (81 FR 71661), proposed notice of reconsideration (October 2016 proposed notice of reconsideration).

On April 6, 2020, Earthjustice submitted a petition for reconsideration of the February 2020 final action on behalf of Air Alliance Houston, California Communities Against Toxics, Clean Air Council, Coalition For A Safe Environment, Community In-Power & Development Association, Del Amo Action Committee, Environmental Integrity Project, Louisiana Bucket Brigade, Sierra Club, Texas Environmental Justice Advocacy Services, and Utah Physicians for

a Healthy Environment (Docket Item No. EPA-HQ-OAR-2010-0682-1000). The petition for reconsideration requested that the EPA reconsider five issues in the February 4, 2020, final rule: (1) The EPA's rationale that the PRD standards and emergency flaring standards are continuous; (2) the EPA's rationale for the PRD standards under CAA sections 112(d)(2) and 112(d)(3); (3) the EPA's rationale for separate work practice standards for flares operating above the smokeless capacity; (4) the EPA's rationale for risk acceptability and risk determination; and (5) the EPA's analysis and rationale in its assessment of acute risk. The EPA initially denied the April 6, 2020, petition for reconsideration (85 FR 67665) and provided detailed responses to each of the five issues raised in the April 2020 petition in a September 3, 2020, letter, which is available in the Petroleum Refinery rulemaking docket (Docket Item No. EPA-HQ-OAR-2010-0682-0999). Subsequently, after further consideration, the EPA wrote a letter on April 19, 2022, to petitioners explaining that it has decided to undertake reconsideration on select provisions related to the work practice standards for PRDs and emergency flaring. Specifically, the EPA is reconsidering the inclusion of the *force majeure* allowances in the PRD and emergency flaring work practice standards as discussed in detail in section III.A of this preamble. As noted in our April 19, 2022, letter, we may reconsider additional issues in the future.

### **III. Reconsideration Issues, Request for Public Comments, and Other Proposed Changes**

To address selected issues for which we granted reconsideration and to provide other technical corrections, the EPA is proposing revisions to the EMACT standards, OLD NESHAP, MON, and Petroleum Refineries NESHAP. The EPA is proposing revisions to the work practice standards for PRDs and emergency flaring related to *force majeure* provisions in the EMACT standards, MON, and Petroleum Refineries NESHAP, and is proposing standards for the degassing of storage vessels in the EMACT standards, OLD NESHAP, and MON. The EPA is also proposing to add requirements for pressure-assisted flares and mass spectrometers to the Petroleum Refineries NESHAP to align this rule with other more recent chemical sector rules and eliminate the need to request site-specific alternative means of emission limitations

(AMELs) for these units. In addition, the EPA is proposing other technical corrections, clarifications, and correction of typographical errors in all rules. To ensure public participation in its final decisions, the EPA is requesting public comment on these specific issues as described below. The EPA will not respond to comments addressing any other issues or any other provisions of the final rule not specifically addressed in this proposed rulemaking.

#### *A. Pressure Relief Devices and Emergency Flaring*

As described in the background section II.D of this preamble, the work practice standards for PRDs and emergency flaring in Petroleum Refinery MACT 1 provide the criteria for violating the work practice standards based on a count of the events by emission unit and root cause. The count of events by emission unit currently excludes events for which the root cause is determined to be *force majeure* as defined in 40 CFR 63.641. In their April 2020 petition, petitioners took issue with the inclusion of the *force majeure* allowance as they claim that it makes the standards non-continuous and that it is inappropriate to include this allowance based on the inclusion of similar provisions in two local California rules (South Coast Air Quality Management District; Bay Area Air Quality Management District). The EPA fully responded to these issues in the September 2020 letter (Docket Item No. EPA-HQ-OAR-2010-0682-0999) and the EPA's position on these issues has not changed. Namely, there are components of both the PRD management provisions and emergency flaring provisions that apply at all times and not all components of the standard must apply at all times for the standard to be continuous. The EPA also stated that its consideration of the continuous nature of the work practice standards and their basis in the two local California rules has been set forth in a manner consistent with public review and comment requirements.

However, during our recent reconsideration efforts, the EPA recognizes that despite the term "*force majeure*" being carefully defined, the *force majeure* allowance in the work practice standards may present difficulties for determining compliance. It may also represent a provision that some facility owners or operators may seek to use to avoid incurring violations and pursuing

potentially disruptive corrective actions. The reporting requirements for the work practice standards in 40 CFR 63.655(g)(10)(iv) and 63.655(g)(11)(iv) provide that the refinery owner or operator must report the results of the root cause and corrective action analysis completed during the reporting period (*i.e.*, semiannually). The reporting of the event-specific data associated with the work practice standards is currently included in periodic reports that are submitted to the delegated state authority and/or EPA Regional Office, as applicable, and are thus not publicly available. During the root cause analysis and corrective action process, refineries maintain discretion when categorizing and reporting the root cause of atmospheric PRD releases and emergency flaring events, thereby placing the onus on the EPA to determine whether the definition of *force majeure* has been appropriately applied.

In acknowledgement of these concerns and to fully inform our decision as to whether rule amendments for Petroleum Refinery MACT 1 are necessary with respect to the *force majeure* allowance, we reviewed periodic reports from refineries in Texas and Louisiana obtained through the EPA Regional Office. For atmospheric PRD releases, we reviewed periodic reports from 18 refineries spanning 0.5–1.5 years of time per refinery, and a total of 12.5 refinery-years. These reports covered semiannual compliance reporting periods during calendar years 2019 through 2021. During that time, there were atmospheric PRD releases at four of these 18 refineries. There were five total releases. None of the determined root causes were attributed to events that meet the definition of the term *force majeure*. For emergency flaring events, we reviewed periodic reports from 22 refineries spanning 0.5–1.5 years of time per refinery, and a total of 15.5 refinery-years. During that time, there were emergency flaring events at six of these 22 refineries. There were eight total events at these six refineries. Of these, three of the eight events were attributed to causes that, as reported, meet the definition of the term *force majeure*. In reviewing these data, we conclude that atmospheric PRD releases and emergency flaring events are relatively infrequent at refineries and that those determined to have a root cause characterized as a *force majeure* event are even less so.

When we initially proposed the Petroleum Refinery MACT 1 requirements, the primary data available for event releases were from the TCEQ Air Emission Event Report Database,<sup>2</sup> which requires the reporting of emission events that exceed a reportable quantity and industry comments with limited supporting documentation. Based on the available data, we concluded that the “three strikes” provisions were reasonable, but there were concerns that circumstances outside of the refinery’s control may cause violations. Based on the data available now, we conclude that the frequency of these types of releases is lower than originally expected. This lower frequency may be due to the refinery sector rule’s provisions, like the redundant prevention measures for PRD, which were implemented in the final rule and that apply at all times. Given these data and the lower frequency of *force majeure* events, we conclude that the *force majeure* allowances included in the provisions for PRDs and flares are not necessary. We also find that by removing the *force majeure* allowance, the rule is strengthened, and compliance becomes easier to assess as it is determined purely based on the count of events by emission unit and root cause. There is no categorization or interpretation related to the root cause of the event. The corrective action component of the work practice standards would now apply to all events regardless of the root cause and all events would count towards the violation criteria set forth in the standard. As noted, our analyses were performed on data we requested directly from the EPA Regional Offices, which are not readily available to the public. We find that making these data readily available to the public would increase the transparency of the events regulated by the work practice standards.

Therefore, in this proposed action, the EPA is proposing to remove the term *force majeure* from the list of defined terms in 40 CFR 63.641 as well as to remove the *force majeure* allowance from the criteria for a violation of the work practice standards for atmospheric PRD releases and emergency flaring events in 40 CFR 63.648(j)(3) and 63.670(o)(7). We are also

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<sup>2</sup> TCEQ Search Air Emission Event Reports, <https://www.texas.gov/>.

proposing to amend the reporting requirements for the event-specific work practice standard data in 40 CFR 63.655(g)(10)(iv) and 63.655(g)(11)(iv) to require these data to be reported electronically through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI).

The EMACT standards and MON include the same work practice standards for PRDs and emergency flaring as Petroleum Refinery MACT 1. The OLD NESHAP also includes the same work practice standard for emergency flaring as Petroleum Refinery MACT 1. Because compliance with the work practice standards for existing sources begins in summer of 2023 for these 3 rules, we do not have the number of events that count towards violations for these NESHAP, but the rationale and benefits for removing the *force majeure* allowance follows exactly as discussed above for refineries. These include removing the onus from the EPA as to whether the definition of *force majeure* has been appropriately applied when determining the root cause, making compliance easier to assess, and strengthening both rules. For flares, the EMACT standards, OLD NESHAP, and MON directly reference the petroleum refinery flare provisions at 40 CFR 63.670. Therefore, the above-mentioned proposed revisions to 40 CFR 63.670(o)(7) for emergency flaring events would be automatically incorporated into the requirements for the EMACT standards, OLD NESHAP, and MON. In addition, the EPA is proposing to remove the term “*force majeure*” from the list of defined terms in 40 CFR 63.2406, because this definition was included specifically due to the *force majeure* provisions for emergency flaring events. The EPA is also proposing to remove the term “*force majeure*” from the list of defined terms in 40 CFR 63.1103(e)(2) and 63.2550 as well as to remove the *force majeure* allowance from the criteria for a violation of the work practice standard for atmospheric PRD releases in 40 CFR 63.1107(h)(3) and 63.2480(e)(3). Lastly, the EPA is proposing new reporting requirements for the EMACT standards at 40 CFR 63.1110(a)(10)(iii) to require electronic reporting, through the CDX using CEDRI, of the event-specific work practice standard data in 40 CFR 63.1110(e)(4)(iv) and 63.1110(e)(8)(iii). We note that the MON already has a

more general compliance report template for electronic reporting, see 40 CFR 63.2520(e), which will automatically incorporate electronic reporting of the event-specific work practice standard data.

### *B. Storage Vessel Degassing*

The 2020 EMACT standards, OLD NESHAP, and MON included a standard for storage vessel degassing to control emissions from shutdown operations (see the work practice standards in 40 CFR 63.1103(e)(10), 63.2346(a)(6), and 63.2470(f), respectively). The rules allow storage vessels to be vented to the atmosphere once a storage vessel degassing concentration threshold is met (*i.e.*, less than 10 percent of the lower explosive limit (LEL)) and all standing liquid has been removed from the vessel to the extent practicable. The requirements are applicable to fixed roof and floating roof storage vessels that are subject to control requirements in each of the rules. We did not propose a storage vessel degassing standard in the EMACT standards, OLD NESHAP, and MON, but we finalized a standard based on comments received for all 3 rules. We based the degassing standard on Texas permit conditions, which represented the MACT floor.<sup>3</sup> Specifically, permit condition 6 (applicable to floating roof storage vessels) and permit condition 7 (applicable to fixed roof storage vessels) formed the basis of the storage vessel degassing standard.

The petitioners argued that including a storage vessel degassing standard for floating roof storage vessels was not a logical outgrowth of the proposal and that it was not possible to comment on this standard. As previously noted in section II of this preamble, the EPA granted reconsideration on this issue. The petitioners stated that while they did identify the Texas permit conditions as a reference in their comments, certain key information was not incorporated into the final EMACT standards, OLD NESHAP, and MON for the degassing of floating roof storage

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<sup>3</sup> Texas Permit Conditions are available at:

<https://www.tceq.texas.gov/assets/public/permitting/air/Guidance/NewSourceReview/mss/chem-mssdraftconditions.pdf>.



vessels. Additionally, the petitioners argued that they did not request additional work practices for floating roof storage vessels for which owners and operators already elect to comply with the floating roof storage vessels requirements in 40 CFR part 63, subpart WW because, even with the removal of the shutdown exemption, the petitioners contended that it is still possible to comply with the subpart WW provisions (because these provisions already provide continuous control during degassing by limiting the vapor space of the storage vessel via the floating roof and requiring prompt and continuous filling until the roof is refloated).

We disagree with the petitioners' claims that a separate standard for floating roof storage vessel degassing is not needed due to the removal of the shutdown exemption. Rather, as discussed here, the EPA must set a storage vessel degassing standard that applies to all storage vessels under CAA section 112, and 40 CFR part 63, subpart WW, does not adequately control degassing emissions from floating roof storage vessels. First, the emission source for which the EPA is required to set a MACT standard is storage vessels, regardless of whether the source has a fixed roof or floating roof. While petitioners contend that their comments did not specifically mention the degassing of floating roof storage vessels (rather, only the degassing of fixed roof storage vessels), the CAA is clear that the EPA is required to set MACT standards for each emission source, which, in this instance, includes all storage vessels, regardless of roof type. Further, the EPA has never subcategorized storage vessels by roof type. Rather, the EMACT standards, OLD NESHA, and MON allow owners or operators to choose from different options to control emissions from storage vessels and comply with the MACT standards. As is relevant, using a floating roof that meets the requirements in 40 CFR part 63, subpart WW, is one of the control options owners or operators may choose for control of emissions during normal storage vessel operations. Thus, the EPA is required under CAA section 112 to set a MACT standard for previously unregulated degassing operations for all storage vessels (regardless of roof type) and not for some subset of storage vessels as the petitioners assert.

Second, storage vessel degassing is a unique shutdown activity with operations and emissions that are completely different from normal storage vessel operations. While the previous MACT standards-controlled emissions of breathing losses and working losses from normal storage vessel operations, storage vessel degassing is a very infrequent event (*i.e.*, occurring on average every 14 years based on EMACT data) for which commenters requested an alternative standard in the EMACT standards, OLD NESHAP, and MON when EPA removed the shutdown exemption in those NESHAP. The storage vessel degassing process first requires owners or operators to empty the tank of liquid contents. When this occurs, the floating roof on a floating roof storage vessel no longer acts as a control for HAP emissions as it is no longer floating on the liquid in the tank and minimizing vapor space. Rather, the roof is landed on legs and effectively acts as a fixed roof storage vessel with respect to emissions generation. From there, the storage vessel is generally purged, typically with an inert material such as nitrogen or steam, for a period of time to remove residual vapors before the vessel can be opened to perform maintenance. This purge stream generates HAP emissions and is the subject of the MACT control requirements for which the EPA is proposing alternative standards. As such, complying with the 40 CFR part 63, subpart WW, requirements for floating roof storage vessels is not an effective control for HAP emissions during the degassing phase of a floating roof storage vessel, when it essentially operates as a fixed roof storage vessel. Furthermore, storage vessel degassing provisions in Texas and the South Coast Air Quality Management District in California exist precisely because a standard specific to storage vessel degassing is warranted, including for floating roof storage vessels.

After determining that a standard is necessary for degassing of all storage vessels (regardless of roof type), the EPA reviewed the Texas permit conditions again to determine if revisions to the degassing standard for floating roof storage vessels in the EMACT standards, OLD NESHAP, and MON are appropriate. As noted by the petitioners, Texas permit condition 6.B does provide certain allowances for the degassing process for floating roof storage vessels; a

24-hour window is provided to start controlled degassing after the floating roof storage vessel has been drained, and the storage vessel may be opened during this period only to set up for degassing and cleaning. We determined that the 24-hour window stipulates how long a floating roof storage vessel can be landed before it needs to be filled again or degassed, but it does not have a direct bearing on the underlying control standard for degassing operations. As such, we are not revising the rules to incorporate the 24-hour window into the storage vessel degassing standard. Regarding the opening of the floating roof storage vessel to set up for degassing and cleaning, while we do not believe the current language precludes a facility from taking this step, we are revising the standard to include related language for clarity. For example, the petitioners noted that it is necessary to make connections to a temporary control device to control the floating roof storage vessel degassing emissions, which may require opening the storage vessel to make these connections. Therefore, we are proposing that a floating roof storage vessel may be opened prior to degassing to set up equipment (*i.e.*, make connections to a temporary control device), but this must be done in a limited manner and must not actively purge the storage vessel while connections are made.

An opportunity to comment on the storage vessel degassing provisions was not previously provided because the provisions were included in the final rules but not in the proposed rules. Therefore, the EPA is re-proposing what was finalized for each rule in 2020 and is proposing additional revisions to address degassing of floating roof storage vessels. We are proposing storage vessel degassing standards for the EMACT standards at 40 CFR 63.1103(e)(10), the OLD NESHAP at 40 CFR 63.2346(a)(6), and the MON at 40 CFR 63.2470(f).

### *C. Other Technical Corrections and Clarifications*

There are several additional revisions that we are proposing for the EMACT standards, OLD NESHAP, MON, and Petroleum Refineries NESHAP to address other technical corrections and clarifications and to correct typographical errors. These proposed corrections and

clarifications are summarized in table 2 through table 4 of this preamble in the following sections. We request public comment on each of these revisions.

## 1. EMACT Standards

Table 2 of this preamble provides responses to specific issues raised by stakeholders and presents proposed revisions to the EMACT standards to address certain technical corrections, clarifications, and typographical errors.

**Table 2. Summary of Proposed Revisions to 40 CFR Part 63, Subpart YY**

| Provision                  | Issue Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Proposed Revision                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 40 CFR<br>63.1103(e)(7)(i) | <p>Delay of burner repair provisions:</p> <p>A petitioner argued that requiring an ethylene cracking furnace to implement the delay of burner repair provisions finalized in the 2020 final rule is impracticable and is inconsistent with what the best performers are doing. The petitioner stated that a significant amount of preparation is needed to shut down an ethylene cracking furnace and that no source can comply with the delay of burner repair provisions as written. Accordingly, where a burner cannot be repaired without an ethylene cracking furnace shutdown, owners or operators would have to decoke their ethylene cracking furnaces immediately (<i>i.e.</i>, within 1 day of identifying flame impingement), leading to more decoking events and subsequently more emissions from the decoking of ethylene cracking furnaces.</p> | <p>An opportunity to comment on the delay of burner repair provisions was not previously provided because the provisions were included in the final rule but not in the proposed rule. Therefore, the EPA is re-proposing what was finalized along with the following revisions for delay of burner repair. The EPA is proposing to remove the requirement that the owner or operator may only delay burner repair beyond 1 calendar day if a shutdown for repair would cause greater emissions than the potential emissions from delaying repair. We agree that this requirement is impracticable and could lead to more decoking events and more emissions from decoking of ethylene cracking furnaces. Instead, the EPA is proposing that delay of repair beyond 1 calendar day is allowed if the repair cannot be completed during normal operations, the burner cannot be shut down without significantly impacting the furnace heat distribution and firing rate, and action is taken to reduce flame impingement as much as possible during continued operation. We are also maintaining that if a delay of repair is required to fully resolve burner flame impingement, repair</p> |

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | must be completed following the next planned decoking operation (and before returning the ethylene cracking furnace back to normal operations) or during the next ethylene cracking furnace complete shutdown (when the ethylene cracking furnace firebox is taken completely offline), whichever is earlier.                                                                                                                          |
| 40 CFR 63.1103(e)(8)(i)                            | <p>Isolation valve inspection and repair:</p> <p>A petitioner requested that the EPA revise the requirement to rectify poor isolation prior to continuing decoking operations. The petitioner argued that certain isolation valve repairs must be completed after the ethylene cracking furnace is shut down, which consequently requires the ethylene cracking furnace to go through decoking. The petitioner said that if a furnace is not decoked prior to shutdown, damage can occur to the furnace tubes and could pose a safety issue. In addition, the petitioner noted that some isolation valves serve gas streams from multiple ethylene cracking furnaces, and there may be instances when all furnaces would need to be decoked and shut down to properly rectify the isolation valve issue. The petitioner argued that allowing for some flexibility is necessary for facilities to operate properly and to avoid damaging equipment.</p> | The EPA agrees with the petitioner and is proposing language to allow facilities to wait and rectify isolation valve issues after a decoking operation, provided that the owner or operator can reasonably demonstrate that damage to the radiant tube(s) or ethylene cracking furnace would occur if the repair was attempted prior to completing a decoking operation and/or prior to the ethylene cracking furnace being shut down. |
| 40 CFR 63.1110(e)(4)(iii)                          | Provision contains a typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | The EPA is proposing to replace “§ 63.1109(e)(7)” with “§ 63.1109(e)(6)” to correct the typographical error.                                                                                                                                                                                                                                                                                                                           |
| 40 CFR 63.1102(c)(11), (d)(2)(ii), and (e)(2)(iii) | Provisions contain a typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | The EPA is proposing to replace “§ 63.1108(a)(4)(i)” with “§ 63.1108(a)(4)” to correct a typographical error that we made while removing startup, shutdown, and malfunction (SSM) exemptions. Our intent was to include all of 40 CFR 63.1108(a)(4)                                                                                                                                                                                    |

|                                                                        |                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                        |                                                         | in the EMACT standards. This proposed revision would also resolve analogous typographical errors for the carbon black and cyanide chemicals source categories that are also contained in 40 CFR part 63, subpart YY.                                                                                                                                                                                                                                                                             |
| 40 CFR 63.1103(e)(4)(iii) and 63.1110(a)(10)(i), (ii), (iii), and (iv) | Provisions needing technical clarifications or removal. | The EPA is proposing to remove duplication and point directly to 40 CFR 63.9(k) when the source is required to submit certain reports to CEDRI. Specifically, instructions for submitting reports electronically through CEDRI, including instructions for submitting CBI and asserting a claim of EPA system outage or <i>force majeure</i> , were recently added to 40 CFR 63.9(k) (85 FR 73885); therefore, text related to these requirements is no longer necessary in the EMACT standards. |

## 2. OLD NESHAP

Table 3 of this preamble provides responses to specific issues raised by stakeholders and presents proposed revisions to the OLD NESHAP to address certain technical corrections, clarifications, and typographical errors.

**Table 3. Summary of Proposed Revisions to 40 CFR Part 63, Subpart EEEE**

| Provision            | Issue Summary                                | Proposed Revision                                                                                                                                                                                                                          |
|----------------------|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 40 CFR 63.2346(a)(6) | Provision contains a typographical error.    | The EPA is proposing to replace “items 3 through 6 of table 2 to this subpart” with “items 2 through 6 of table 2 to this subpart” to correct the typographical error.                                                                     |
| 40 CFR 63.2346(e)    | Provision contains a typographical error.    | The EPA is proposing to replace “storage vessels” with “storage tanks” to correct the typographical error.                                                                                                                                 |
| 40 CFR 63.2378(e)(3) | Provisions needing technical clarifications. | The EPA is proposing to add the word “planned” in front of “routine maintenance” in the last sentence of the provision to further clarify that the exemption only applies to periods of planned routine maintenance. We are also proposing |

|                                                              |                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                              |                                                         | to replace “storage vessel” with “storage tank” in the last sentence of the provision to correct a typographical error.                                                                                                                                                                                                                                                                                                                                                                                                        |
| 40 CFR 63.2378(e)(4)                                         | Provisions needing technical clarifications.            | To create consistency in the time period during which the bypass provision applies ( <i>i.e.</i> , the level of material in the storage tank must not be increased during the same time period that breathing loss emissions bypass the fuel gas system or process), we are proposing to delete “to perform routine maintenance” from the last sentence of 40 CFR 63.2378(e)(4). We are also proposing to replace “storage vessel” with “storage tank” in the last sentence of the provision to correct a typographical error. |
| 40 CFR 63.2382(d)(3), and 63.2386(f), (g), (h), (i), and (j) | Provisions needing technical clarifications or removal. | The EPA is proposing to remove duplication and point directly to 40 CFR 63.9(k) when the source is required to submit certain reports to CEDRI. Specifically, instructions for submitting reports electronically through CEDRI, including instructions for submitting CBI and asserting a claim of EPA system outage or <i>force majeure</i> , were recently added to 40 CFR 63.9(k) (85 FR 73885); therefore, text related to these requirements is no longer necessary in the OLD NESHAP.                                    |

### 3. MON

This section of this preamble presents revisions we are proposing to the MON heat exchange system requirements. In addition, table 4 of this preamble provides responses to other specific issues raised by stakeholders and presents proposed revisions to the MON to address certain technical corrections, clarifications, and typographical errors.

In May 2021, EPA Region 4 received a request from Eastman Chemical Company to perform alternative monitoring instead of the Modified El Paso Method to monitor for leaks in Eastman’s Tennessee Operations heat exchange systems, which primarily have cooling water containing soluble HAP with a high boiling point. Eastman requested that the previous water

sampling requirements for heat exchange system leaks provided in the MON, which ultimately references 40 CFR 63.104(b) (*i.e.*, use of any EPA-approved method listed in part 136 of this chapter as long as the method is sensitive to concentrations as low as 10 parts per million (ppm) and the same method is used for both entrance and exit samples), be allowed for cooling water containing certain soluble HAP in lieu of using the Modified El Paso Method.

Eastman specifically identified two HAP, 1,4-dioxane and methanol, which do not readily strip out of water using the Modified El Paso Method. Eastman's application for alternative monitoring included experimental data showing that the Modified El Paso Method would likely not identify a leak of these HAP in heat exchange system cooling water. Eastman conducted Modified El Paso Method monitoring under controlled scenarios to determine how much methanol and 1,4-dioxane would be detected. The scenarios included solutions of water and either methanol or 1,4-dioxane at concentrations of 1 part per million by weight (ppmw), 20 ppmw, and 100 ppmw (as measured using water sampling methods allowed previously in the MON). The Modified El Paso Method did not detect any methanol or 1,4-dioxane from the 1 ppmw and 20 ppmw solutions (*i.e.*, methanol and 1,4-dioxane did not strip out of the water in detectable amounts). The Modified El Paso Method detected very little HAP from the 100 ppmw solutions, with a maximum of only 0.17 percent of the 1,4-dioxane stripping out and being detected.

Based on this information, the EPA is proposing at 40 CFR 63.2490(e) that the leak monitoring requirements for heat exchange systems at 40 CFR 63.104(b) may be used in limited instances, instead of using the Modified El Paso Method to monitor for leaks. We still maintain that the Modified El Paso Method is the preferred method to monitor for leaks in heat exchange systems and are proposing that the requirements of 40 CFR 63.104(b) may only be used if 99 percent by weight or more of all the organic compounds that could potentially leak into the cooling water have a Henry's Law Constant less than  $5.0\text{E-}6$  atmospheres per mole per cubic meter ( $\text{atm}\cdot\text{m}^3/\text{mol}$ ) at 25° Celsius. We selected this threshold based on a review of Henry's Law



Constants for the HAP listed in table 4 to subpart F of 40 CFR part 63, as well as the water-soluble organic compounds listed in Eastman’s request. Henry’s Law Constants are available from the EPA at <https://comptox.epa.gov/dashboard/>. Examples of HAP that have a Henry’s Law Constant of less than 5.0E-6 atm-m<sup>3</sup>/mol at 25° Celsius are aniline, 2-chloroacetophenone, diethylene glycol diethyl ether, diethylene glycol dimethyl ether, dimethyl sulfate, 2,4-dinitrotoluene, 1,4-dioxane, ethylene glycol monoethyl ether acetate, ethylene glycol monomethyl ether acetate, methanol, and toluidine. Many of these HAP also have very high boiling points, with most above 300° Fahrenheit, which means they will generally stay in the cooling water and not be emitted to the atmosphere. While we are proposing that the leak monitoring and leak definition requirements at 40 CFR 63.104(b) may be used in limited instances, we are not proposing that other provisions of 40 CFR 63.104 apply. Instead, for example, facilities that use water sampling to detect leaks must still comply with the recordkeeping and reporting requirements of 40 CFR 63.2520(e)(16) and 40 CFR 63.2525(r). We are proposing revisions at 40 CFR 63.2520(e)(16) and 40 CFR 63.2525(r) to specify this.

Table 4 of this preamble provides responses to other specific issues raised by stakeholders and presents proposed revisions to the MON to address certain technical corrections, clarifications, and typographical errors.

**Table 4. Summary of Proposed Revisions to 40 CFR Part 63, Subpart FFFF**

| Provision               | Issue Summary                                                                                                                                                                                                                                | Proposed Revision                                                                                                                                                                                                                                          |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 40 CFR 63.2450(e)(6)(i) | Provision contains a typographical error.                                                                                                                                                                                                    | The EPA is proposing to replace the reference to 40 CFR 63.148(h)(3) with a reference to 40 CFR 63.148(i)(3) to correct the typographical error.                                                                                                           |
| 40 CFR 63.2450(e)(7)    | A petitioner requested that the EPA clarify whether certain adsorber provisions referenced within 40 CFR 63.983 and other related requirements and exceptions ( <i>i.e.</i> , 40 CFR 63.2470(c)(3), 40 CFR 63.2520(d)(6) and (e)(13), and 40 | The EPA is proposing to clarify that 40 CFR 63.2470(c)(3), 40 CFR 63.2520(d)(6) and (e)(13), 40 CFR 63.2525(o), and the provisions referenced within 40 CFR 63.983 all apply (in addition to 40 CFR 63.2450(e)(4) and (e)(6)) if facilities reduce organic |

|                      |                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                      | <p>CFR 63.2525(o)) apply to this paragraph. The petitioner also pointed out that it is not clear whether a supplement to the notification of compliance status (NOCS) report is needed, and if necessary, what information should be provided.</p> | <p>HAP emissions by venting emissions through a closed-vent system to an adsorber(s) that cannot be regenerated or a regenerative adsorber(s) that is regenerated offsite. We are also clarifying in 40 CFR 63.2450(e)(1) that 40 CFR 63.2450(e)(1) does not apply when complying with 40 CFR 63.2450(e)(7).</p> <p>As part of this clarification, we are also proposing a new requirement at 40 CFR 63.2520(d)(6) for adsorbers subject to the requirements of 40 CFR 63.2450(e)(7) requiring a supplement to the NOCS report within 150 days after the first applicable compliance date. We are proposing that the supplement to the NOCS report must describe whether the adsorber cannot be regenerated or is a regenerative adsorber(s) that is regenerated offsite and must specify the breakthrough limit and adsorber bed life that was established during the initial performance test or design evaluation of the adsorber. Finally, we are proposing to revise the introductory paragraph of 40 CFR 63.2520 as well as the requirement in 40 CFR 63.2515(d) to update the reference to the proposed 40 CFR 63.2520(d)(6) paragraph.</p> |
| 40 CFR 63.2460(c)(9) | Provision contains a typographical error.                                                                                                                                                                                                          | The EPA is proposing to replace the phrase “in paragraphs (c)(9)(i) through (vi) of this section” with “in paragraphs (c)(9)(i) through (iv) of this section” to correct the typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 40 CFR 63.2480(a)    | Provision contains a typographical error.                                                                                                                                                                                                          | The EPA is proposing to replace the phrase “For each light liquid pump, valve, and connector in ethylene oxide service” with “For each light liquid pump, pressure relief device, and connector in ethylene oxide service” to correct the typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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| 40 CFR 63.2480(e)(2)(ii) and (e)(2)(iii) | A petitioner pointed out that EPA agreed in its response to comment document (see docket item EPA-HQ-OAR-2018-0746-0200) to delete the second sentence from these provisions; however, the final rule (85 FR 49084) does not reflect these deletions.                                                                                                                  | It was our intent to delete the second sentence from these provisions ( <i>i.e.</i> , the requirement to conduct monitoring if rupture disks are replaced). As stated in our response to comment document (see docket item EPA-HQ-OAR-2018-0746-0200), we agree that the language diverges from what 40 CFR part 63, subpart UU, required for PRDs. Therefore, we are proposing to correct this error by deleting the second sentence from these provisions. |
| 40 CFR 63.2480(f)(18)(iii)               | Provision contains a typographical error.                                                                                                                                                                                                                                                                                                                              | The EPA is proposing to replace “§ 63.181(b)(2)(i)” with “§ 63.181(b)(3)(i)” to correct the typographical error.                                                                                                                                                                                                                                                                                                                                             |
| 40 CFR 63.2480(f)(18)(vi)                | A petitioner contended that the reference to information required to be reported under 40 CFR 63.182(d)(2)(xiv) is too broad and should be more narrowly described as “information in § 63.165(a) required to be reported under 40 CFR 63.182(d)(2)(xiv)” in order to clarify that the reporting requirement is specific to the recently promulgated PRD requirements. | We agree with the petitioner and are proposing to clarify this provision by including “in § 63.165(a).” The proposed language reads “The information in § 63.165(a) required to be reported under 40 CFR 63.182(d)(2)(xiv) is now required to be reported under § 63.2520(e)(15)(i) through (iii).”                                                                                                                                                          |
| 40 CFR 63.2480(f)(18)(x)                 | Provision contains a typographical error.                                                                                                                                                                                                                                                                                                                              | The EPA is proposing to replace “§ 63.1022(a)(1)(v)” with “§ 63.1023(a)(1)(v)” to correct the typographical error.                                                                                                                                                                                                                                                                                                                                           |
| 40 CFR 63.2480(f)(18)(xiii)              | A petitioner contended that the reference to information required to be reported under 40 CFR 63.1039(b)(4) is too broad and should be more narrowly described as “information in § 63.1030(b) required to be reported under 40 CFR 63.1039(b)(4)” in order to clarify that the reporting requirement is specific to the recently promulgated PRD requirements.        | We agree with the petitioner and are proposing to clarify this provision by including “in § 63.1030(b).” The proposed language reads “The information in § 63.1030(b) required to be reported under 40 CFR 63.1039(b)(4) is now required to be reported under § 63.2520(e)(15)(i) and (ii).”                                                                                                                                                                 |
| 40 CFR 63.2493(a)(2)(vi) and (b)(4)      | A petitioner requested clarification of scrubber monitoring parameters and the types of scrubbers that are applicable to certain requirements. The petitioner stated that the rule is                                                                                                                                                                                  | Scrubbers that use an acid solution and reactant tank are the primary focus of the scrubber monitoring requirements because this type of scrubber liquid is necessary to                                                                                                                                                                                                                                                                                     |

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|                      | <p>only applicable to scrubbers that use an acid solution and reactant tank, but that other types of scrubbers are used in instances when ethylene oxide is present in small amounts. The petitioner requested that the pH monitoring parameter be revised to account for other types of scrubbers. The petitioner also requested that the temperature of the “scrubber liquid” be monitored instead of the temperature of the “water.”</p>                                 | <p>specifically control ethylene oxide. As such, we are not revising the monitoring parameters to apply more broadly, such as to scrubbers that use water as the scrubbing liquid. We are proposing clarifying language that the monitoring requirements are applicable to scrubbers “with a reactant tank.” We agree with the petitioner regarding temperature monitoring and are proposing a correction that the temperature of the “scrubber liquid” must be monitored. If a facility uses a scrubber without a reactant tank that provides incidental control of ethylene oxide, the facility may establish site-specific parameters using 40 CFR 63.2493(a)(2)(viii) and (b)(6).</p> |
| 40 CFR 63.2492(b)    | <p>A petitioner requested that an alternative to sampling and analysis of storage tank materials should be allowed, to determine if a storage tank is in ethylene oxide service. The petitioner stated that information already exists for some storage tanks to show that the ethylene oxide concentration in the material stored is less than 0.1 percent by weight (sometimes significantly so) and the requirement to conduct sampling and analysis is unnecessary.</p> | <p>We agree with the petitioner and are proposing to allow calculations to be performed to show that the ethylene oxide concentration is less than 0.1 percent by weight of the material stored in the storage tank, provided the calculations rely on information specific to the material stored. This may include using, for example, specific concentration information from safety data sheets.</p>                                                                                                                                                                                                                                                                                  |
| 40 CFR 63.2493(b)(2) | <p>A petitioner requested that the EPA include introductory language to clarify that the requirements apply only if the facility chooses to route emissions to a non-flare control device and chooses to comply with the 1 ppmv standard via continuous emission monitoring systems (CEMS).</p>                                                                                                                                                                             | <p>We agree with the petitioner that 40 CFR 63.2493(b)(2) only applies if the facility chooses to route emissions to a non-flare control device and chooses to comply with the 1 ppmv standard via CEMS. Therefore, we are proposing to add introductory text at 40 CFR 63.2493(b)(2) that clarifies this.</p>                                                                                                                                                                                                                                                                                                                                                                            |
| 40 CFR 63.2493(d)(3) | <p>A petitioner contended that the reference to “affected source” should be revised to “MCPU” to be consistent with the second column of table 6 to subpart FFFF of part 63.</p>                                                                                                                                                                                                                                                                                            | <p>We agree with the petitioner to revise the provision for consistency with table 6 to subpart FFFF of part 63; therefore, we are proposing to replace “affected source” with “MCPU.”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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| 40 CFR 63.2493(d)(4)(v) | Provision contains a typographical error.                                                                                                                                                                                                                                                                                                                                                                               | The EPA is proposing to replace “§ 63.2445(h)” with “§ 63.2445(i)” to correct the typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 40 CFR 63.2493(e)       | A petitioner requested the EPA clarify whether “delay of repair” provisions apply to equipment in ethylene oxide service. The petitioner noted that in the response to comments for the final rule the EPA stated that “delay of repair” provisions do not apply. However, the petitioner further noted, the final rule language did not reflect this.                                                                  | We confirm that “delay of repair” provisions do not apply for equipment in ethylene oxide service. However, we recognize the rule language did not correctly reflect this. As such, we are proposing to revise 40 CFR 63.2493(e) to appropriately specify that the “delay of repair” provisions of 40 CFR part 63, subparts H and UU, and 40 CFR part 65, subpart F, do not apply.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 40 CFR 63.2520(d)       | A petitioner pointed out that the EPA indicated in the preamble to the final rule (85 FR 49084) that electronic reporting is required at 40 CFR 63.2520(d) for the NOCS report; however, the final rule does not contain this requirement. The petitioner requested that the EPA clarify that this was a misstatement in the preamble language and that the NOCS report is not required to be submitted electronically. | We acknowledge there was an inconsistency in what we said in the preamble about electronic reporting NOCS reports versus what we required in the final rule. However, the inconsistency is irrelevant because in this rulemaking, we are proposing at 40 CFR 63.2520(d) to require that NOCS reports be submitted electronically through the EPA's CEDRI. The proposed requirement to submit NOCS reports electronically will increase the ease and efficiency of data submittal and data accessibility. For a more thorough discussion of electronic reporting, see the memorandum, <i>Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules</i> , which is available in the docket for this rulemaking (see Docket Item No. EPA-HQ-OAR-2018-0746-0169). |
| 40 CFR 63.2525(o)       | A petitioner requested that the EPA update the recordkeeping requirements for adsorbers that cannot be regenerated and for regenerative adsorbers that are regenerated offsite to reflect the monitoring requirements in the final rule (85 FR 49084). Specifically, the petitioner                                                                                                                                     | In the final rule (85 FR 49084), we inadvertently did not revise the recordkeeping requirements to reflect the associated monitoring requirements in 40 CFR 63.2450(e)(7) (for adsorbers that cannot be regenerated and for regenerative adsorbers that are regenerated offsite). We are                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|                                                              | requested that the EPA revise 40 CFR 63.2525(o)(1) to require that you must keep records of the breakthrough limit and bed life for each adsorber established according to 40 CFR 63.2450(e)(7)(i); revise 40 CFR 63.2525(o)(2) to require that you keep records of each outlet HAP or TOC concentration measured according to 40 CFR 63.2450(e)(7)(ii) and (e)(7)(iii); and revise 40 CFR 2525(o)(3) to require records of the date and time each adsorber is replaced. The petitioner also requested that EPA remove the requirement at 40 CFR 63.2525(o)(4) in its entirety. | proposing to correct this by revising 40 CFR 63.2525(o)(1) and (2) and removing the requirement at 40 CFR 63.2525(o)(4) in its entirety, as recommended by the petitioner. However, we are not proposing to revise 40 CFR 63.2525(o)(3) as requested by the petitioner. We are keeping the language of 40 CFR 63.2525(o)(3) “as is,” which aligns with the language used in 40 CFR 63.2450(e)(7)(iii)(B).                                                                            |
| 40 CFR 63.2520(e)(2)                                         | Provision contains a typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | The EPA is proposing to correct the spelling of “paragraph.”                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 40 CFR 63.2450(e)(5)(iv), 63.2520(e), (f), (g), (h), and (i) | Provisions needing technical clarifications or removal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | The EPA is proposing to remove duplication and point directly to 40 CFR 63.9(k) when the source is required to submit certain reports to CEDRI. Specifically, instructions for submitting reports electronically through CEDRI, including instructions for submitting CBI and asserting a claim of EPA system outage or <i>force majeure</i> , were recently added to 40 CFR 63.9(k) (85 FR 73885); therefore, text related to these requirements is no longer necessary in the MON. |

#### 4. Petroleum Refineries NESHAP

In addition to removing the *force majeure* allowance from the PRD and emergency flaring work practice standards as discussed in section III.A of this preamble, we are also proposing other amendments to Petroleum Refinery MACT 1 that are consistent with flaring provisions in other recent rules (*i.e.*, EMACT standards) that adopted the Petroleum Refinery MACT 1 flare requirements but addressed additional issues, such as adding provisions for pressure-assisted flares. The proposed amendments include adding pressure-assisted flares to the definition of the term “flare” in 40 CFR 63.641 and adding appropriate requirements for

pressure-assisted flares in 40 CFR 63.670. These amendments are consistent with the EPA's intention that all types of flares, including pressure-assisted flares, are covered by the provisions in Petroleum Refinery MACT 1. The proposed amendments for pressure-assisted flares include pilot flame standards and requirements for cross-lighting in 40 CFR 63.670(b), pressure monitoring in 40 CFR 63.670(d)(3), higher combustion zone operating limits in 40 CFR 63.670(e), and requirements to use only the direct calculation methods for determining the flare vent gas net heating value according to 40 CFR 63.670(l)(5)(ii). We are also proposing reporting and recordkeeping requirements specific to pressure-assisted flares in 40 CFR 63.655(g)(11)(iii) and (i)(9)(vi), respectively.

Further, to provide additional flexibility to the monitoring requirements for flare gas composition as required by 40 CFR 63.670(j), we are proposing to add mass spectrometry as a method in 40 CFR 63.671. The current provisions in 40 CFR 63.671 could be interpreted to suggest that gas chromatographs must be used for flare gas compositional analysis. This was not our intent. We recognize that there are some methods, like mass spectrometry, which can determine flare gas composition without the use of a gas chromatograph. We are proposing to add specific requirements for calibration and operation of mass spectrometers that parallel the requirements for gas chromatographs.

*D. What compliance dates are we proposing?*

We are not proposing new compliance dates for any revisions that we are proposing for the EMACT standards, OLD NESHAP, and MON. The rules that were promulgated in 2020 have still not come into full effect and owners and operators have until July 6, 2023, to comply with the EMACT standards, July 7, 2023, for the OLD NESHAP, and August 12, 2023, for the MON. As such, owners and operators would have until those dates to comply with the proposed revisions. In addition, the proposed revisions do not impose substantial new requirements but rather provide clarity to the rules for owners and operators.

For most actions that we are proposing for the petroleum refineries NESHAP, we are positing that facilities would need some time to successfully apply these revisions, including time to: read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown, as defined in the rule; and make any necessary adjustments, including making adjustments to standard operating procedures, and convert reporting mechanisms to install necessary hardware and software. The EPA recognizes the confusion that multiple compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the timeframe needed for compliance with the revised requirements, the EPA considers a period of 60 days after the effective date of the final rule to be the most expeditious compliance period practicable. Therefore, we are proposing that affected sources must be in compliance with most of the proposed revisions to the petroleum refineries NESHAP upon initial startup or within 60 days of the effective date of the final rule, whichever is later. There is one exception to this compliance period, discussed next.

We are proposing that petroleum refinery owners or operators must comply with the new operating and monitoring requirements for flares upon initial startup or by the effective date of the final rule, whichever is later. We believe that compliance with the flare requirements immediately upon finalizing the rule is necessary to ensure that pressure-assisted flares are appropriately operated.

#### **IV. Summary of Cost, Environmental, and Economic Impacts**

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

In our final RTRs, we estimated the following:

There are 26 facilities subject to the EMACT standards that are currently operating and five additional facilities under construction. A complete list of known facilities in the EMACT standards is available in appendix A of the memorandum, *Review of the RACT/BACT/LAER*



*Clearinghouse Database for the Ethylene Production Source Category* (see Docket ID No. EPA-HQ-OAR-2017-0357-0008).

There are 173 OLD NESHAP facilities currently operating and four additional OLD NESHAP facilities under construction. A complete list of known OLD NESHAP facilities is available in appendix A of the memorandum, *National Impacts of the 2020 Risk and Technology Review Final Rule for the Organic Liquids Distribution (Non-Gasoline) Source Category* (see Docket ID No. EPA-HQ-OAR-2018-0746-0069).

There are 201 MON facilities currently operating. A complete list of known MON facilities is available in appendix 1 of the memorandum, *Residual Risk Assessment for the Miscellaneous Organic Chemical Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* (see Docket Item No. EPA-HQ-OAR-2018-0746-0011).

Additionally, based on the Energy Information Administration's 2021 Refinery Capacity Report, there are 129 operable petroleum refineries in the United States (U.S.) and the U.S. territories, all of which are expected to be major sources of HAP emissions.

*B. What are the air quality impacts?*

We did not estimate baseline emissions or emissions reductions for the proposed revisions. None of the proposed revisions would have a direct and quantifiable impact on emissions because they are minor revisions to existing requirements.

*C. What are the cost impacts?*

We expect minimal to no cost impacts due to the proposed revisions. There could be minor costs for affected facilities related to reading the proposed rule, making minor updates to operating procedures in some limited cases, and making minor adjustments to reporting systems. A few proposed revisions provide slightly greater flexibility and could yield minor cost savings. Any potential costs or cost savings are expected to be negligible.

*D. What are the economic impacts?*

No economic impacts are anticipated due to the proposed revisions because any potential cost impacts are expected to be very minor.

*E. What are the benefits?*

The proposed revisions are not expected to yield air quality benefits because emissions will not be affected. However, the proposed revisions should improve clarity, monitoring, compliance, and implementation of the rules for the affected source categories.

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

The proposed revisions are not expected to impact emissions and therefore we did not conduct an environmental justice analysis. However, environmental justice analyses were conducted for the final 2020 rules for the EMACT standards, OLD NESHAP, and MON. Further information regarding these environmental justice analyses is available at 85 FR 40415, 85 FR 40757, and 85 FR 49129, respectively.

## **V. Statutory and Executive Order Reviews**

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

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

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

*B. Paperwork Reduction Act (PRA)*

This action is not expected to impose any new information collection burden under the PRA for the EMACT standards, OLD NESHAP, MON, or Petroleum Refineries NESHAP. We are proposing certain technical revisions, including new electronic reporting provisions for the PRD and emergency flaring work practice standards, but the technical revisions would not result in changes to the information collection burden. The reporting of the current PRD and

emergency flaring data elements currently are typed up in a word processor and/or spreadsheet software and included in the submission to the delegated state authority and/or the EPA Regional Office. The proposed amendments would instead require facilities to submit the work practice related data using an EPA-provided spreadsheet template electronically through CEDRI. These data would not be expected to also be included in a facility's submission to the delegated state authority and/or EPA Regional Office, so no duplication is expected. The proposed amendments to the mode of reporting of the work practice related data are not expected to change the current burden under the PRA and we have not revised the information collection request (ICR) for the existing rules. OMB has previously approved the information collection activities contained in the existing regulations at: 40 CFR part 63, subpart YY, and has assigned OMB control number 2060-0489; 40 CFR part 63, subpart EEEE, and has assigned OMB control number 2060-0539; 40 CFR part 63, subpart FFFF, and has assigned OMB control number 2060-0533; and 40 CFR part 63, subpart CC, and has assigned OMB control number 2060-0340.

#### *C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The proposed amendments to 40 CFR part 63, subparts CC, YY, EEEE, and FFFF would only minimally change the existing requirements for all entities. There could be minor costs for affected facilities related to reading the proposed rule, making minor updates to operating procedures in some limited cases, and making minor adjustments to reporting systems. A few proposed revisions provide slightly greater flexibility and could yield minor cost savings. Any potential costs or cost savings are expected to be negligible.

#### *D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

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

*E. Executive Order 13132: Federalism*

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

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

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

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

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

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

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking involves technical standards. Therefore, the EPA conducted searches for the EMACT standards, MON, OLD NESHAP, and Petroleum Refineries NESHAP through the

Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3B, 4, 5, 18, 21, 22, 25, 25A, 27, and 29 of 40 CFR part 60, appendix A; EPA Methods 301, 316 and 320 of 40 CFR part 63, appendix A; and EPA Methods 602 and 624 of 40 CFR part 136, appendix A.

No applicable voluntary consensus standards were identified for any of the listed methods. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method.

After reviewing the available standards, the EPA determined that the 20 candidate VCS identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, or validation data, or due to other important technical and policy considerations. Additional information for the VCS search and determinations can be found in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: for Ethylene Production, Miscellaneous Organic Chemical Manufacturing, Organic Liquids Distribution (Non-Gasoline), and Petroleum Refineries*, which is available in the docket for this action.

The EPA welcomes comments on this aspect of the proposed rulemaking, and, specifically, invites the public to identify potentially applicable VCS, and to explain why the EPA should use such standards in this regulation.

*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) 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 (people of color and/or indigenous peoples) and low-income populations.

Because the proposed revisions are not expected to impact emissions, the EPA believes that this action is not likely to change existing disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples. See section IV.F of this preamble for related information regarding environmental justice analyses.

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

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

**Michael S. Regan,**

*Administrator.*

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