(Authority: 39 U.S.C. 3220(a)(2), 5 U.S.C. 301)

3. Section 1.701 is revised to read as follows:

§ 1.701 Contact person for missing children official mail program.

The Department of Veterans Affairs contact person for the Missing Children Official Mail Program is: Mrs. Roslynd R. Stewart, Information Management Service (045A4), Office of Policy and Program Assistance, Office of Information Resources Management, Office of Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420–0001. Telephone: (202) 565–8949.

(Authority: 39 U.S.C. 3220(a)(2), 5 U.S.C. 301)

§ 1.702 [Amended]

4. In § 1.702, paragraph (b) is amended by removing ''If doing so would be cost effective, the Department of Veterans Affairs shall insert via automated insertion equipment'' and adding, in its place, ''The Department of Veterans Affairs will insert''; by removing ''types of''; by removing ''data processing'' and adding, in its place, ''automation''; and by removing ''may be'' and adding, in its place, ''are''.

5. In § 1.702, paragraph (c) is amended by removing ''will be'' in both places and adding, in its place in both places, ''is''; and by removing ''the Mail and Travel Policy Division'' and adding, in its place, ''Information Management Service''.

6. In § 1.702, paragraph (d) is amended by removing ''(i.e. use or destroy)''; by removing ''will be'' and adding, in its place, ''is''; by removing ''contract'' and adding, in its place, ''contact''; by removing ''envelopes''; and by removing ''as to'' and adding, in its place, ''as of''.

7. In § 1.702, paragraph (h) is amended by removing ''reguations'' and adding, in its place, ''regulations''.

8. Section 1.703 is revised to read as follows:

§ 1.703 Percentage estimate.

It is the Department of Veterans Affairs objective that 20 percent of its first class official mail addressed to the public contain missing children photographs and information.

(Authority: 39 U.S.C. 3220(a)(2), 5 U.S.C. 301)

§ 1.705 [Amended]

9. In § 1.705, paragraph (a) is amended by removing ''which are ordered and/or stocked in quantities which'' and adding, in its place, ''ordered and stocked in quantities that''.

10. In § 1.705, paragraph (c) is amended by removing ''and/or'' and adding, in its place, ''or''.

11. In § 1.705, paragraph (e) is amended by removing ''return, address areas'' and adding, in its place, ''return address area''; and by removing ''OJJDP'' and adding, in its place, ''Office of Juvenile Justice and Delinquency Prevention''.

[FR Doc. 95–23146 Filed 9–18–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 63

[AD-FRL–5272–8]

RIN 2060–AD02

Federal Standards for Marine Tank Vessel Loading Operations and National Emission Standards for Hazardous Air Pollutants for Marine Tank Vessel Loading Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates standards under section 183(f) of the Clean Air Act (the Act) and requires reasonably available control technology (RACT) to limit air emissions of volatile organic compounds (VOC) and hazardous air pollutants (HAP) from new and existing marine tank vessel loading operations. VOC emissions, together with nitrogen oxides are precursors to the formation of tropospheric ozone, which can impair lung capacity, cause eye, nose and throat irritation, timber and other valuable crops such as soybeans and cotton. The health effects of exposure to HAPs can include cancer, respiratory irritation and damage to the nervous system. An additional set of standards promulgate national emission standards for hazardous air pollutants (NESHAP) under section 112 of the Act for marine tank vessel loading operations and require existing and new major sources to control emissions using maximum achievable control technology (MACT) to control HAP.

EFFECTIVE DATE: This regulation is effective September 19, 1995. See **SUPPLEMENTARY INFORMATION** section concerning judicial review.

ADDRESSES: *Technical Support Document.* The Technical Support Document (TSD) for the promulgated standards may be obtained from the U.S. Department of Commerce, National Technical Information Service (NTIS), Springfield, Virginia 22161, telephone number (703) 487–4650. Please refer to ''Federal Standards for Marine Tank Vessel Loading Operations and National Emission Standards For Hazardous Air Pollutants For Marine Tank Vessel Loading Operations—Technical Support Document for Final Standards,'' Document Number PB95–234514. The TSD contains, (1) a summary of public comments made on the proposed standards and the Administrator's response to the comments and (2) a summary of the changes made to the standards since proposal.

Electronic versions of the promulgation TSD as well as this final rule are available for download from the EPA's Technology Transfer Network (TTN), a network of electronic bulletin boards developed and operated by the Office of Air Quality Planning and Standards (select ''CAAA'' ''Title III''). The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541–5742 for data transfer of up to a 14,400 bits per second (bps). If more information on TTN is needed, contact the systems operator at (919) 541–5384. A copy of the TSD has also been placed in the Docket at the address given below.

Docket. Docket No. A–90–44, containing supporting information used in developing the promulgated standards, is available for public inspection and copying from 8 a.m. to 4 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, Ground Floor, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the standards or technical aspects, contact Mr. David Markwordt at (919) 541–0837, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: Under section 307(b)(1) of the Act, judicial review of NESHAP is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings

brought by the EPA to enforce these requirements.

The information presented in this preamble is organized as follows:

I. The Standards

A summary of today's final standards is listed in Table 1. Included in this table are applicability cutoffs based on annual throughput (under section 183(f)) and HAP emissions (under section 112), separation of marine tank vessel loading operations at petroleum refineries (which are now included under the petroleum refineries source category), and emission standards based on subcategory determinations for offshore terminals and the Alyeska Pipeline Service Company's (APSC's) Valdez Marine Terminal (VMT). The promulgated regulations allow for several alternative compliance technologies to allow owners or operators maximum compliance flexibility.

TABLE 1.—FINAL STANDARDS, NATIONAL COSTS, AND EMISSION REDUCTIONS

Section of act	Subcategory	Standard	Emission reduction, Mg/yr	Annual cost, $MM
183(f)	New and existing terminals having throughput of ≥1.6 billion liters per year (10 million barrels per year) of gasoline or ≥32 billion liters per year (200 million barrels per year) of crude oil.	98 percent reduction in emissions if using combustion techniques; 95 percent reduction in emissions if using recovery techniques.	13,000 (VOC), 900 (HAP).	20–40.
112	Existing major source terminals having emissions of hazardous air pollutants (HAP) of 10/25 tons per year or more from loading of marine tank vessels.	97 percent reduction in HAP emissions	7,000 (VOC), 750 (HAP).	20–40.
112	Existing major source terminals collocated at petroleum refineries having HAP emissions of 10/25 tons per year or more from loading of marine tank vessels; new major source terminals regardless of HAP emissions from marine tank vessel loading (both existing and new sources are regulated under the Gasoline Refineries NESHAP).	97 percent reduction in HAP emissions for existing sources, 98 percent reduction in HAP emissions for new sources; emissions averaging with petroleum refinery emissions points is allowed.	Impacts included in previous subcategory data.	Impacts included in previous subcategory data.
112	Existing major source terminals having HAP emissions of less than 10/25 tons per year from loading of marine tank vessels.	No control	None	None.
112	New major source terminals regardless of HAP emissions from marine tank vessel loading.	98 percent reduction in HAP emissions	None	None.
112 and 183(f)	Existing major source terminals located more than 0.8 kilometers (0.5 miles) offshore.	No control	None	None.
112	New major source terminals located more than 0.8 kilometers (0.5 miles) offshore.	95 percent reduction in HAP emissions	None	None.
112 and 183(f)	Alyeska Pipeline Service Company's Valdez Marine Terminal.	98 percent reduction in emissions with maximum throughput limits.	19,000 (VOC), 2,500 (HAP).	20.

Sources required to reduce emissions are also required to monitor the performance of control technology installed to achieve the required emissions reductions. Baseline parameters may be established by owners or operators during initial performance tests, or continuous emissions monitoring devices may be used to provide indicators of performance. The baseline parameters may be based on manufacturer's recommended operating parameters or other parameters selected by the source and approved by the Administrator. Sources are also required to develop and implement an operation and maintenance plan that describes a program of corrective action for varying (i.e., exceeding baseline parameters) air pollution control equipment and monitoring equipment used to comply with these emissions standards. This plan includes operating parameters that shall be monitored and recorded as indicators of proper operation of the air pollution control devices.

In developing these final monitoring requirements and compliance provisions, the Agency has provided significant flexibility to owners or operators of sources required to reduce emissions in regard to selecting monitoring protocols, yet has assured compliance with the standards. Compliance is assured through reporting and recordkeeping requirements that specify annual reports of system performance. This reporting interval is compressed to semi-annual for sources that experience excess emissions.

Owners or operators of all marine tank vessel loading operations subject to the federal standards promulgated

under section 183(f) of the Act (RACT sources) are required to commence construction of its vapor collection system and air pollution control device(s) within 2 years from September 19, 1995. These RACT sources are required to complete the installation of the control technology needed to comply with the standards within 3 years from September 19, 1995. Owners or operators of new RACT sources with an initial startup after September 21, 1998 are required to comply with all requirements upon startup. A RACT source may request a waiver of final compliance for up to 1 year if it can prove that the additional time is necessary for the installation of controls.

Owners or operators of marine tank vessel loading operations subject only to the requirements promulgated under section 112(d) of the Act (MACT standards) are required to install the control technology needed to comply with the standards within 4 years from September 19, 1995. Owners or operators of new MACT-only sources with initial startup after September 20, 1999 are required to comply with all requirements upon startup.

The VMT owners or operators are required to install the control technology needed to comply with the standards within 30 months from September 19, 1995.

II. Summary of Impacts

These standards will reduce nationwide emissions of hazardous air pollutants (HAP) from marine tank vessel loading operations by approximately 4,150 Mg (4,565 tons) after 1999 compared to the emissions that would result in the absence of the standards. These standards will reduce emissions of volatile organic compounds (VOC) from marine tank vessel loading operations by approximately 39,000 Mg (42,900 tons) after 1999 compared to the emissions that would result in the absence of the standards. No significant adverse secondary air, water, solid waste, or energy impacts are anticipated from the promulgation of these standards.

The implementation of this regulation is expected to result in nationwide annualized costs for existing marine tank vessel loading operations of $60 million to $100 million beyond baseline based on an analysis of applying controls to all existing facilities not currently controlled to the level of the standards. Nationwide capital costs expected to result from these regulations are approximately $266 million to $440 million.

As discussed in this preamble under Regulatory Flexibility Act Compliance, the economic impact analysis performed for this rulemaking showed that the estimated maximum price increases for the affected products varied, but were not large (less than 1%). These price-increase estimates reflect the control cost increases for transporting crude and products. Because these increases are small and because the elasticities of demand for petroleum products are small, estimated percent output reductions were minimal. Correspondingly, estimated employment reductions were also relatively small.

Potentially significant economic impacts on some of the smaller affected terminal operations were identified, although the decision not to require emission controls for existing smaller operations greatly reduces the potential for adverse economic impacts on small terminal operations. These potential impacts would result from the high per barrel control cost differential between the smaller and larger terminal operations that would need to control emissions. Some of these smaller terminal operations, to the extent that they are competing with nearby larger or unaffected terminal operations, could have had difficulty raising prices to cover cost increases and could have been significantly adversely impacted by this rule.

The potential economic impact on marine tank vessel owners was substantially reduced because of the decision not to require emission controls on small existing terminals in this rulemaking. Because only a small percentage of U.S. marine transported volume of products will be impacted by the standard, only a relatively small percentage of U.S. marine tank vessels will need to retrofit. Thus, only the vessels that will need the least cost to retrofit (most likely the larger, newer, double-skin vessels) will do so, leading to some degree of dedicated service. It is expected that vessel owners that do retrofit will be able to pass most retrofit costs forward in terms of higher prices.

III. Significant Changes to the Proposed Standards

Proposed standards for marine tank vessel loading operations were published in the Federal Register on May 13, 1994 (59 FR 25004). Under section 183(f) of the Act, the proposed rule would have required a 98 percent reduction in emissions (or a 95 percent reduction, if recovery techniques were used) from marine tank vessel loading and unloading operations that load either 100 million barrels per year of crude oil or 5 million barrels per year of gasoline. Sources would have had 2 years to comply with these RACT standards. Under section 112(d) of the Act, the proposed rule also would have required owners or operators of major sources that emit 1 ton per year or more of HAP from marine tank vessel loading and unloading operations to reduce total HAP emissions by at least 93 percent. Sources would have had 3 years to comply with these MACT standards. The control devices used to meet these standards were required to be operated at 98 and 95 percent efficiencies for combustion and recovery control technologies respectively. The EPA also proposed to regulate emissions from ballasting.

Three alternatives were proposed to ensure vessel tightness: (1) Pressure test the vessel, (2) perform a leak test on all components using Method 21 of appendix A of 40 CFR part 60, or (3) load the vessel at less than atmospheric pressure.

Proposed monitoring requirements required owners or operators to monitor any valves that could divert flow from a control device if those bypass valves could not be secured. Monitoring criteria were also proposed for combustion devices, carbon adsorbers, condensers, absorbers, and flares. Owners or operators were generally required to establish operating parameters during an initial performance test and then monitor combustion temperature for combustion devices, VOC concentration in the exhaust stream for carbon adsorbers, exhaust stream temperature for condensers, VOC outlet concentration for absorbers, and continuous presence of a flame and the vent stream flow for flares. Criteria to apply for and obtain approval for alternative monitoring criteria (and for alternative monitoring devices) were also specified in the proposed rule.

Under the proposed rule, owners or operators of sources required to install controls would have had to fulfill the reporting and recordkeeping requirements of the part 63 General Provisions, including submittal of the following reports: (1) Initial notification that the source is subject to the standards, (2) notification of initial performance test, (3) initial notification of compliance status, (4) annual excess emissions and monitoring system performance report and/or summary report, and (5) an annual emissions estimation report. These sources would also have been required to maintain documentation that vessels loaded at the facility were vapor tight. All information was to have been made readily available to the Administrator or

delegated State authority for a minimum of 5 years.

In addition, the Agency requested comment on several issues, including the subcategorization of certain types of terminals. On August 31, 1994, the Agency published a notice reopening the comment period to request comment on amending the Marine Tank Vessel Loading and the Petroleum Refinery source categories to move marine terminals collocated at petroleum refineries to the Petroleum Refineries source category (59 FR 44955). On March 8, 1995, the Agency reopened the comment period to request comment on extending the proposed compliance dates (60 FR 12703).

A. Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the Federal Register (56 FR 1186) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the regulation of this source category. This meeting was held on January 31, 1991. The meeting was open to the public, and each attendee was given an opportunity to comment on the standards recommended for proposal.

The standards were proposed, and the preamble was published in the Federal Register on May 13, 1994 (59 FR 25004). The preamble to the proposed standards discussed the availability of the regulatory text and proposal TSD, which described the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal, and copies of the regulatory text and TSD were distributed to interested parties. Electronic versions of the preamble, regulation, and TSD were made available to interested parties via the TTN (see **ADDRESSES** section of this preamble).

To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held on June 15, 1994 in Research Triangle Park, North Carolina. The public comment period was from May 13 to July 18, 1994. The Agency also reopened the public comment period for specific comments on two occasions—August 31, 1994 (59 FR 44955) and March 8, 1995 (60 FR 12723). In all, over 150 comment letters were received (including seven duplicates). Additional information received from interested parties but not submitted directly to the docket was included in the docket as additional comments on the proposed regulation. Information submitted after the close of the comment period is also included in the docket and may appear on the docket index as public comments in docket category IV–D. The comments have been carefully considered, and changes have been made to the proposed standards when determined by the Administrator to be appropriate.

B. Comments on the Proposed Standards

Comments on the proposed standards were received from 143 commenters composed mainly of States, environmental groups, private citizens, control device vendors, industry, and trade associations. A detailed discussion of these comments and responses can be found in the promulgation TSD, which is referred to in the **ADDRESSES** section of this preamble. The summary of comments and responses in the TSD serves as the basis for the revisions that have been made to the regulations between proposal and promulgation. Most of the comment letters contained multiple comments. A summary of the revisions to the regulations along with discussion of the comments on the major issues is provided below. In the TSD, the comments have been divided into the following areas:

(1) Applicability of standards.
(2) Inclusion of certain terminals with the petroleum refinery source category.
(3) Subcategorization issues.
(4) RACT/MACT.
(5) Compliance schedule for Titles I and III standards.
(6) Compliance, performance testing, and monitoring requirements.
(7) Vapor tightness requirements.
(8) Leak detection and repair.
(9) Reporting and recordkeeping requirements.
(10) General provisions interaction.
(11) Wording of regulation.
(12) Administrative record/sources of information.
(13) Cost effectiveness/impacts.
(14) Miscellaneous.
(15) Comments on proposed appendices to 40 CFR part 64.

C. Significant Changes

Several changes have been made since the proposal of these standards. The majority of the changes have been made to clarify portions of the rule that were unclear to the commenters. A summary of the major changes is presented below.

(1) *Removal of unloading operations (ballasting) from the source category.* In the proposed rule, the Agency included regulations proscribing emissions from ballasting of vessels following unloading of vessels. Comments asserted that ballasting operations are performed by vessel operators, not by the regulated terminal sources. The Agency agrees with this interpretation of the affected source. The Agency also agrees that regulating ballasting operations would be difficult to enforce. The Agency's intent in prohibiting ballasting emissions in the proposed regulation was to provide a cross-reference with existing Coast Guard regulations addressing ballasting in vessels. The Coast Guard rules require vessels to have segregated ballast tanks for crude oil loadings. The Agency sees no benefit to restating Coast Guard requirements for ballasting. Moreover, EPA agrees that the relatively low amount of actual emissions associated with ballasting does not justify dual regulation of ballasting. As discussed in the proposal TSD, the total VOC emissions from crude oil tankship ballasting were estimated to be approximately 950 Mg/yr. Based on the portion of HAP in crude oil vapor, total HAP emissions from ballasting are less than 120 Mg/yr. Ballasting emissions will diminish in the future because tankships built since 1980 are required by domestic law and international agreement to use segregated ballast tanks that do not emit vapors during ballasting. Therefore, in order to prevent confusion in the regulated community, the Agency does not address ballasting or bunkering emissions in the final regulation. The Agency defers to the U.S. Coast Guard's existing standards (33 CFR parts 155 and 157; and 46 CFR parts 30 et al.).

(2) *Extension of the compliance schedule for section 183(f) (''Title I'') and section 112 (''Title III'') standards.* In the proposed rule, EPA proposed to establish compliance deadlines of 2 years for the section 183(f) standards, and 3 years for the section 112 standards. The Agency received numerous comments regarding these schedules that stated the length of the compliance periods was insufficient to comply with the standards. Commenters noted that facilities' abilities to install pollution control devices are constrained by several factors, including the following: (1) The limited number of contractors experienced in installing control equipment in marine loading facilities; (2) the numerous facilities that will need to meet the standards at the same time; and (3) the lead time needed to meet permitting and safety requirements from permitting authorities and the U.S. Coast Guard.

Commenters stated that EPA had discretion to extend the compliance period under section 183(f), noting the ambiguity of the term ''effective date'' and that the evidence indicated that the proposed emission control technologies

would not be ''reasonably available, considering costs, nonair-quality benefits, environmental impacts, energy requirements, and safety factors'' within 2 years. Commenters also noted that EPA had the authority to provide for a waiver of compliance with MACT standards under section 112 for up to 1 year if certain findings were made.

On March 8, 1995, EPA reopened the comment period to receive more comments on the issue of whether the compliance periods for the RACT and MACT regulations should be extended. Numerous commenters indicated support for extending the compliance periods, generally reiterating the views expressed in earlier comments. Some commenters also pointed out that greater environmental benefits can sometimes be obtained by granting longer compliance periods, which can allow for better designed, more robust, safer and more advanced technologies, and in this instance, could result in greater use of recovery technologies (rather than incineration). Commenters also noted that previous attempts by States to regulate tank vessel loading in less than 3 years resulted in the need for numerous waivers as it became clear that the deadlines could not be met. One commenter provided a list of several marine loading terminals in California that had installed emission control equipment and indicated that almost all of these installation projects took at least 3 years to complete.

The Agency agrees with the commenters that permitting and safety approvals from permitting authorities and the Coast Guard, the dearth of skilled engineering and construction firms, and the history of facilities being unable to comply with existing regulations compels the Agency to extend the date for full compliance with the RACT and MACT rules. In these final standards, EPA allows sources regulated under section 183(f) 3 years to be in full compliance with the emission control requirements promulgated under section 183(f). In addition, RACT sources may request a waiver of up to 1 year to achieve full compliance with the requirements if they can show that the additional period is necessary for the installation of controls. The Agency believes that this result is consistent with section 183(f). Section 183(f) requires the application of ''reasonably available'' control technology, considering costs, any non-air quality benefits, environmental impacts, energy requirements, and safety factors. The overwhelming evidence received by the Agency indicates that most, if not all, sources that must install emission control devices cannot do so within 2 years. States that have attempted to enforce such a requirement have been forced to provide waivers to the regulated sources. Given the relative scarcity of qualified contractors and the permitting and other requirements necessary for such construction, it is clear that the emission control technologies required by this rule will not be ''reasonably available'' within 2 years of the promulgation of this rule. Moreover, the information provided to the Agency indicates that a 2-year deadline may force regulated sources to install equipment that is less reliable and that may cause safety concerns. Given the emphasis that Congress put on safety in these regulations and the fact that the Coast Guard will need to review such installations prior to operation, a 2-year deadline seems contrary to Congress' broad intent and may result in conflicts with Coast Guard requirements. The Agency has in the past provided sources with reasonable time to complete actions required by the Clean Air Act. *See* EPA rulemaking on fuel/fuel additives published on June 27, 1994 (59 FR 33042).

Moreover, EPA believes that the imprecision of the term ''effective date'' could also provide EPA with the ability to allow compliance after 2 years. The distinction between ''effective dates'' of regulations and ''compliance dates'' is important and has been a clear part of administrative procedure for many years. *See, e.g.*, section 112(i)(3); *Natural Resources Defense Council* v. *Environmental Protection Agency*, 22 F. 3d 1125, 1138 (D.C. Cir. 1994).

The Agency is requiring regulated RACT sources to provide proof that they have commenced construction of vapor collection systems and air pollution control devices within 2 years after promulgation of the final standards. The Agency believes that these actions can reasonably be achieved within 2 years of promulgation.

The Agency believes that most RACT terminals will be able to meet the emissions reduction requirements contained in the final standards within the 3 years following the promulgation date. The Agency estimates that only 8 terminals subject to the RACT requirements are not presently controlling emissions to the level specified in the standards. These terminals are among the largest terminals in the U.S., and can reasonably be expected to have in-house staff capable of assisting in the design and installation of control technology. Furthermore, the Agency is aware that some of these terminals are already designing control equipment in anticipation of these final RACT requirements.

The EPA shall allow existing sources regulated solely under section 112 four years to be in full compliance with the emission control requirements promulgated under section 112. Sources must generally comply with MACT standards under section 112 within 3 years of promulgation. However, section 112(i) of the Act specifically allows EPA to provide sources with a waiver of up to 1 year to achieve full compliance with the requirements if they can show that the additional period is necessary for installing the controls. Commenters stated that standards containing similar compliance dates for a large number of sources would result in numerous facilities competing for a limited number of experienced contractors in order to meet the standards at the same time. Commenters suggested a staggered compliance schedule for the sources affected by the standards. Commenters also stated that many sources would require more than 3 years to install the required control equipment given the limited number of contractors experienced in installing control equipment in marine loading facilities and the lead time needed to meet permitting and safety requirements from permitting authorities and the U.S. Coast Guard.

The Agency agrees with the commenters that many MACT sources would probably require 1-year waivers if there was a 3-year compliance date for MACT sources in the final rule. The Agency notes that these sources are typically smaller than the sources regulated under RACT, and would not be as likely to have in-house staff capable of assisting in the design and installation of control technology. Therefore, the Agency believes that the sources controlled under section 112 that are not controlled under section 183(f) should automatically receive a waiver of 1 year that will allow a total of four years from September 19, 1995 to comply with the MACT emission reduction requirements. The Agency believes that this total of 4 years is sufficient time for the estimated 20 sources presently uncontrolled to design and install control technologies sufficient to meet the MACT standards. The Agency believes that the staggered compliance schedule (i.e., 3 years for RACT terminals and 4 years for MACT terminals) coupled with the reduced number of terminals required to control emissions under the final rule should alleviate commenters' concerns about the scarcity of qualified installation consultants and vendors. This extended

schedule is also expected to address concerns regarding permitting delays.

The Agency is providing the VMT with 30 months to be in full compliance with these regulations. The Agency believes, per its discussions with APSC, that this extension provides sufficient time to comply with the promulgated rule.

(3) *Addition of new subcategories under the section 112 regulations for offshore terminals and for the Alyeska Pipeline Service Corporation's Valdez Marine Terminal.* In the proposed rule, the Agency established two subcategories based on size for the section 112 MACT regulations. The Agency also solicited comments on whether additional subcategories should be established under the MACT regulations for specific types of terminals based on particular characteristics of those types of terminals of which the Agency had no information at that time. Based on information received in the public comments, the Agency has determined that two additional subcategories exist within the marine tank vessel loading operation source category.

(a) Subcategory for offshore terminals. As stated in the solicitation of comments in the proposed rule, the Agency does not believe that a facility at least one-half mile offshore is part of a land-based contiguous site. The Agency also stated that such offshore terminals present unique regulatory challenges such as costs, environmental impacts, and/or size constraints. The Agency requested information regarding the feasibility and costs of controlling emissions from offshore terminals. The Agency also requested comments on whether offshore terminals should be grouped into a separate subcategory and what the control status of terminals in such a subcategory should be. Comments in response to this request indicated that these types of vessel loading operations face significant challenges in controlling emissions that were different from land-based, contiguous loading operations. These challenges include high costs, technical complications, and permitting requirements that would result from requirements to construct new platforms to locate control equipment adjacent to the offshore terminal or additional subsea or surface lines to route loading vapors to onshore control equipment. Commenters noted that these challenges are either non-existent or not as pronounced for onshore, contiguous terminals. The Agency has therefore determined that a subcategory for these types of terminals is justified and has based its definition for offshore terminals on a minimum distance of one-half mile from the terminal's furthest loading point to the shore, regardless of the existence of subsea lines. [See the discussion in section 2.3.2 of the TSD for the rationale supporting the one-half mile limit].

Once the Agency determined that offshore terminals should be placed in a subcategory for the MACT standards, the MACT floor was determined (see Docket A–90–44, Item Number IV–B–2). Based on information received from commenters, (see Docket A–90–44, Item Number IV–D–136) the Agency estimates that there are fewer than 20 offshore terminals having subsea lines. None of these terminals presently control emissions from marine tank vessel loading. The Agency is also aware of additional offshore terminals that do not have subsea lines. Two of these terminals are known to presently control emissions (see Docket A–90–44, Item Number IV–D–80). Based on the information available to the Agency, the MACT floor for this subcategory is no control of HAP emissions (see MACT floor memorandum in Docket A–90–44, Item Number IV–B–2). Data submitted by commenters showed that the costs associated with the control of offshore terminals are between two and five times more expensive than comparable onshore control techniques (see Docket A–90–44, Item numbers IV–D–108 and IV–D–136). Because of the poor cost effectiveness resulting from these significantly higher costs, as well as the environmental, safety, and technical challenges associated with requiring control more efficient than the MACT floor, the Agency has selected the MACT floor level of no control for offshore marine tank vessel loading operations.

The Agency also determined that offshore terminals loading 10 million barrels or more per year of gasoline or 200 million barrels or more of crude oil should not be required to control VOC or HAP emissions under section 183(f) RACT requirements. Although one commenter (see Docket A–90–44, Item Number IV–D–80) noted two controlled offshore terminals, no information was submitted regarding the specific control techniques used at these two terminals. Since most of the other comments noted that the significantly higher costs and poor cost effectiveness shown by these sources (see previous paragraph) would make control requirements unreasonable for these offshore terminals, the Agency determined that requirement for controls at offshore RACT terminals would not be consistent with the requirements for the technology to be ''reasonable.''

(b) Subcategory for Alyeska Pipeline Service Company's Valdez Marine Terminal. In the proposed rule, the Agency solicited comment on the possibility of placing the VMT in a separate subcategory. Comments from APSC and several other commenters representing State and local governments, industry, private citizens, and environmental groups were considered by the Agency in developing this final rule.

The Agency has determined that the VMT should be placed in a separate subcategory for the following reasons: (1) The VMT is the largest (by a significant amount) crude oil loading operation in the U.S.; (2) special circumstances, including climatic and economic conditions, require keeping the oil moving through the pipeline; (3) severe meteorological conditions result in increased loading irregularity; (4) the VMT throughput projections show declining throughput over the next several years. Several comments from environmental groups, State and local agencies, and private citizens in the Valdez area did not object to placing VMT in a separate subcategory provided that emissions were controlled. Based on all of these factors, the Agency determined that APSC's VMT should be placed in a separate subcategory.

Once the subcategory for VMT was established, the Agency determined the MACT floor for the subcategory (see Docket A–90–44, Item Number IV–B–2). The VMT presently does not control emissions, therefore the MACT floor is no control. However, the Agency noted that in all of the comments received concerning the establishment of this subcategory, the cost effectiveness associated with requiring controls more stringent than the MACT floor is not prohibitive. The annual emissions reductions anticipated from controlling VMT are expected to be approximately 19,000 Mg (20,900 tons) of VOC and approximately 2,500 Mg (2,750 tons) of HAP. The annual costs anticipated with today's regulation of VMT are expected to be $20 million. The resulting cost effectiveness is approximately $1,050 per megagram based on VOC or approximately $8,000 per megagram based on HAP. The Agency therefore selected a strategy for both MACT and RACT standards for VMT that requires a reduction in emissions by 98 percent efficiency of all throughput loaded from at least two of the terminal's loading berths. Maximum limits for total throughput and throughput at uncontrolled berths (above which all VMT loading berths would be required to reduce emissions by 98 percent) are included as part of these standards.

These throughput limits address the projected decreasing throughput that would necessitate the use of only two berths for routine loading after 2001. Provisions to allow for scheduled maintenance of the controlled berths are also established in the VMT standards.

Some commenters initially noted that the cost of controlling VOC may be high relative to the benefits of controlling VOC at a remote site in an Arctic ozone attainment area. Additionally, some commenters initially stated that the benefits of controlling HAP would not appear to justify the costs. However, the Agency has also considered later comments from the APSC, the State of Alaska, the Prince William Sound Regional Citizens Advisory Committee (a local citizens group) and private citizens in determining MACT/RACT for the VMT. These commenters agreed that a Federal rule mandating control of primary emissions at the APSC was acceptable. After careful consideration of the costs, the environmental impacts and the comments, the Agency decided that MACT for this subcategory was control beyond the level of the MACT floor (see Docket A–44–90, Item Number IV–B–2).

(4) *Expansion of the petroleum refineries source category to include marine tank vessel loading operations collocated at petroleum refinery operations.* The preamble to the proposed petroleum refinery NESHAP published in the Federal Register on July 15, 1994 (59 FR 36130) requested comments on whether marine tank vessel loading operations at refineries should be included in emissions averaging. On August 31, 1994, the EPA also reopened the comment period for the proposed NESHAP for Marine Tank Vessel Loading Operations (59 FR 44955) to request comment on whether marine terminals collocated at refineries should be moved to the petroleum refinery source category. During the comment period for the gasoline distribution NESHAP, commenters requested that bulk gasoline terminals contiguous to a refinery be regulated by the petroleum refinery NESHAP.

Several commenters responding to the marine tank vessel loading operations proposed NESHAP supported averaging of refinery process unit emissions with emissions from marine terminals and gasoline distribution operations that are located at refineries. The commenters cited more cost effective emission reduction as the advantage of including these emission points in emissions averaging and specifically commented that the costs per Mg emission reduction of the marine tank vessel loading emission controls are high. These commenters also claimed that emission calculation procedures for loading are well established and that adding marine loading to the averaging provisions will not appreciably increase the complexity of enforcement. Other commenters opposed including marine tank vessel loading and gasoline distribution in emissions averaging. Some commenters claimed that these are separate source categories, and the Act does not permit averaging across source categories. Others were concerned that including marine loading in averages could result in uncontrolled peak emissions.

In the final rules, emissions from marine tank vessel loading operations, bulk gasoline terminal or pipeline breakout station storage vessels, and bulk gasoline terminal loading racks at petroleum refineries are allowed to be included in emissions averages. The petroleum refinery source category and source definitions have been changed to include marine tank vessel loading operations, bulk gasoline terminal and pipeline breakout station storage vessels, equipment leaks, and bulk gasoline terminal loading racks classified under SIC codes 5171 (Petroleum Bulk Stations and Terminals) and 4613 (Refined Petroleum Pipelines) that are located at refinery plant sites. Note that these operations are closely connected with refinery process unit operations since they transfer products of the refinery process units.

A marine tank vessel loading operation or gasoline terminal or pipeline breakout station that is collocated at a petroleum refinery can be considered part of the same source as the refinery subject to this rule. Because these operations are redefined to be part of the source subject to the rule, the prohibition against intersource averaging is not violated. However, all terminals subject to section 183(f) regardless of location will not be allowed to average emissions with petroleum refinery sources.

In keeping with EPA's stated goal of increasing flexibility in rulemakings, this decision has been made to provide more opportunities to average. This decision optimizes the opportunities for refiners to find cost-effective emission reductions from overall facility operations on-site. Costs and cost effectiveness of controlling a particular kind of emission point, such as marine tank vessel loading, will vary depending on many site-specific factors. Emissions averaging allows the owner and operator to find the optimal control strategy for their particular situation.

Including emissions from marine tank vessel loading operations, bulk gasoline terminal or pipeline breakout station storage vessels, and bulk gasoline terminal loading racks in emissions averages will result in equivalent or greater overall HAP emission reduction at each refinery. The averaging provisions are structured such that ''debits'' generated by not controlling an emission point that otherwise would require control must be balanced by achieving extra control at other refinery emission points covered by the NESHAP.

With regard to commenter's concerns about peak emissions, the quarterly cap on the ratio of debits to credits is intended to limit the possibility of exposure peaks. Furthermore, because loading operations occur fairly frequently and emissions from an individual vessel filling or loading event are relatively small, such emissions are not expected to cause significant exposure peaks. Moreover, no evidence has been presented that emissions averaging would permit a very different mix of emissions to occur than would point-by-point compliance. That is, peaks of exposures from batch streams, storage, and loading operations should be equally likely under point-by-point compliance as under emissions averaging; therefore, emissions averaging does not represent a less effective control strategy. Furthermore, in order to receive approval for an emissions average, the owner or operator is required to demonstrate that the emissions average does not increase the risk or hazard relative to compliance without averaging.

(5) *Revision to the subcategories established based on annual HAP emissions from 1 ton per year to 10 tons per year of any single HAP or 25 tons per year of total HAP.* The proposed standards grouped major source terminals into two subcategories based on HAP emissions: Terminals with HAP emissions of 1 ton per year or more and terminals having HAP emissions of less than 1 ton per year. In the preamble of the proposed rule, the Agency requested comment on establishing these subcategories based on size (i.e., HAP emissions). In the public comments, the Agency found general, though not universal, agreement on establishing subcategories based on size for this source category. However, some of the comments encouraged the Agency to raise the HAP emissions level of the controlled subcategory. The final standards continue to group major source terminals into subcategories based on HAP emissions; however, these subcategories were changed to terminals with emissions of 10 tons per year or more of any single HAP or 25

tons per year or more of total HAP and terminals having HAP emissions of less than 10 tons per year of all single HAP or less than 25 tons per year of total HAP. The Agency based this decision on information found in the comments received. Commenters noted that prior state regulations generally (though not invariably) distinguished between large tank vessel loading facilities that are responsible for the vast majority of emissions and small tank vessel loading facilities that are substantially less cost effective to regulate. (As discussed below, the incremental cost effectiveness of moving from the 10/25 ton per year distinction to the 1-ton delineation is between $80,000 and $112,000 per megagram, while the cost effectiveness of the 10/25 ton delineation is between $14,500 and $24,000 per megagram.)

Though section 112 does not provide any language indicating the criteria for subcategorization, section 112(d)(1) of the Act states that EPA may distinguish among classes, types, and sizes of sources in establishing standards. EPA believes that division of this source category into two subcategories based on size is appropriate in this instance. (See section 2.3.1 of the promulgation TSD for additional discussion of the subcategories based on size.)

(6) *Incorporation of minimum vapor pressure limit.* The Agency received several comments regarding HAP having low vapor pressures. Most of these commenters stated that these low vapor pressure HAPs are not presently controlled under existing State regulations and that the control of these low vapor pressure compounds presents technical challenges and imposes significantly greater costs to the affected industry. The proposed rule enabled individual facilities to determine which products to control to achieve the 93 percent mass limit. Therefore, facilities would not have had to control low vapor pressure liquids under the proposed rule if higher vapor pressure liquids were available for control. Based on the comments received, the Agency altered the format of the MACT standards to explicitly exempt low vapor pressure liquids consistent with State requirements and recalculated the control requirement for liquids above the vapor pressure limit. Therefore, the MACT floor for existing sources is no control for liquids having a vapor pressure below 1.5 psia and 97 percent control for liquids having a vapor pressure 1.5 psia or greater. Because no low vapor pressure liquids are required to be controlled at any of the known existing sources, the MACT floor for new sources is also no control for liquids having a vapor pressure below 1.5 psia and 98 percent control for liquids having a vapor pressure 1.5 psia or greater. The format of the standard was changed to an efficiency format to reflect the new approach.

The issue of cost effectiveness to control emission streams from the loading of these low vapor pressure materials was also a realistic concern of the commenters. As the MACT floor for regulation of such activities is no control, EPA has discretion, based on section 112(d)'s criteria used for going beyond the floor, to institute a vapor pressure limit. Because of the high costs cited by commenters, the Agency elected not to require controls more stringent than the MACT floor for these low vapor pressure HAP. The Agency therefore selected a vapor pressure limit of 1.5 psia for determining the HAP emissions reduction for the final standards. Control of HAP having vapor pressures below this limit is not required to meet the standards.

(7) *Recalculation of the MACT floors.* The MACT floors determined for this final rulemaking are different than those in the proposed rule. These final rule MACT floors reflect changes in the Agency's regulation of marine tank vessel loading including: (1) The establishment of subcategories for offshore terminals and the VMT terminal; (2) the incorporation of a 1.5 psia minimum vapor pressure limit instead of the weighted average as was proposed; and (3) the increase of the levels of the subcategories based on size (i.e., HAP emissions) from 1 ton per year to 10/25 tons per year. The MACT floors for the final rule also reflect comments on the proposed rule. However, the Agency has not changed the way in which the MACT floors for the final rule have been calculated. With the exception of the MACT floor for VMT, the MACT floors for existing and new sources in the marine tank vessel loading source category are shown in Table 1.

Using the criteria established in section 112(d)(3) of the Act, and after inclusion of information supplied in the public comments, the MACT floors for existing source marine terminal subcategories subject to regulation under Title III of the Clean Air Act were determined. Additional information on the determination of these MACT floors is in the docket (Docket Number A–90–44, Item Number IV-A–2). There are approximately 44 major source terminals (not including the VMT) that emit 10 tons per year or more of any one hazardous air pollutant (HAP) or 25 tons per year or more of any combination of HAP. Twenty-three of these terminals are controlled. The resulting MACT floor level of control is a 97 percent reduction of HAP emissions. There are approximately 1,435 terminals that emit less than 10 tons per year of all individual HAP and less than 25 tons per year of combined HAP. Seventy-nine of these terminals reduce emissions from marine tank vessel loading. The resulting MACT floor level of control is no reduction in HAP emissions. The Agency estimated that there are less than 30 offshore terminals (i.e., loading terminals located 0.5 miles or more from shore). The Agency is aware of only 2 controlled offshore terminals. Therefore the resulting MACT floor level of control is no reduction in HAP emissions. The VMT is presently uncontrolled. Since this is the only terminal in the VMT source category, the MACT floor level of control is no control.

The MACT floors for new source marine terminal subcategories subject to regulation under Title III of the Act were also calculated following the criteria in section 112(d)(3) of the Act. For new major source onshore terminals (not including the VMT) regardless of the marine tank vessel loading HAP emissions, the best performing source achieves a 98 percent reduction of controlled emissions. Therefore, the resulting MACT floor for these sources is 98 percent reduction of HAP emissions. For new major source offshore terminals whose marine tank vessel loading HAP emissions exceed the limits for a major source (i.e., 10 tons of any one HAP, or 25 tons of total HAP), the best controlled similar source achieves a 95 percent reduction of controlled emissions. The resulting MACT floor for new offshore major sources is therefore a 95 percent reduction in HAP emissions. Since the VMT subcategory only contains a single source, and it is not possible for an additional source to be added to this subcategory, no new source MACT floor was calculated for the VMT subcategory.

(8) *Incorporation of additional flexibility to the monitoring requirements and compliance provisions.* The proposed rule required parametric monitoring or continuous emissions monitoring (CEM) as a means of showing compliance with the standards. Any exceedance of the parameters or concentration limits established during a performance test would have resulted in a violation of the standard. Comments indicated that this approach was too severe and warranted additional flexibility. Although the Agency continues to believe that parametric monitoring can be used to determine compliance given availability

of sufficient test data to establish the relationship between control performance and associated parameters, in consideration of the lack of test data establishing the relationship between marine tank vessel loading emissions control efficiency and parametric monitoring and because of the batch nature of marine tank vessel loading operations, the Agency has thoroughly revised the monitoring requirements and compliance provisions of the final rule. A requirement for an operation and maintenance (O & M) plan has been added to the final regulation to ensure proper operation of the air pollution control and monitoring equipment. The O & M plan contains an inspection schedule for each component of the control and monitoring equipment. The ''compliance'' language that appeared in § 63.563 of the proposed rule has been removed. In its place, the final rule contains provisions that require an unscheduled inspection and corrective actions when operating parameters exceed the applicable baseline parameters.

Flexibility has also been added to the methods for determining baseline parameters. Owners or operators of a source required to reduce emissions may establish baseline parameters during a performance test or may choose to set the applicable baseline based on a manufacturer's recommended baseline operating parameter.

Commenters on the proposed rule also requested that additional operating parameters be added to the regulation and that sources be allowed to apply for alternatives to the Administrator. Additional operating parameters have been added to the final regulation for several control devices. A cross reference to the general provisions found in 40 CFR part 63 (containing requirements for establishing alternative monitoring procedures) has been provided to assist sources seeking approval of alternative monitoring procedures. Commenters also requested that time intervals of the monitoring requirements be made consistent for each of the operating parameters. In the final rule, sources are required to monitor and record data points every 15 minutes for each operating parameter.

D. Minor Changes

(1) Revisions to definitions and phrasing have been made to clarify the regulation.

(2) Based on comments received and on changes to the monitoring and compliance provision requirements, the reporting requirements have been changed. Under today's final rule, the Agency is requiring the following one-time reports as specified in the general provisions found in 40 CFR part 63, subpart A: report of startup, construction or modification; notification and report of emissions tests and results and/or initial notification of compliance status; notification and report of physical/operational changes; notification and report of waiver applications; and an engineering report describing the vent system used to vent each vent stream to a control device.

The final rule also requires owners or operators to submit yearly summary reports and yearly reports of excess emissions and monitoring system performance reports. However, in order to provide relief from the reporting requirements to well-controlled sources while assuring compliance with the standards, the Agency has provided that sources whose exceedances have durations that total less than 5 percent of the total reporting time for that reporting period and whose CMS downtime for the reporting period is less than 10 percent of the total operating time for that reporting period may submit only the summary report found in 40 CFR part 63 subpart A instead of both the summary report and the full excess emissions and continuous monitoring system performance report found in § 63.567(d)(2).

The final rule does not require quarterly reports of excess emissions or monitoring parameter exceedances. The Agency agreed with commenters that quarterly reporting did not add sufficient compliance assurance to warrant the high costs associated with the quarterly reporting. Quarterly reporting also did not agree with the revised monitoring and compliance determination requirements found in the final rule (see section 3(c)(5) of this preamble and section 2.6 of the promulgation TSD for additional discussion of the revised monitoring requirements contained in the final rule).

(3) Several commenters requested clarification of the general provisions found in 40 CFR part 63 as they relate to this rule. A table identifying the relationship of the final General Provisions requirements has been added to the final regulation. Language similar to that in the General Provisions has been added to subpart Y in cases where a direct reference to the General Provisions was not appropriate.

(4) References to the proposed Performance Specifications 101 and 102 have been updated to incorporate the Agency's promulgation of Performance Specifications 8 and 9.

E. Other Significant Issues

(1) Regulation Under Sections 183(f) and 112

The EPA proposed to regulate tank vessel loading operations under both sections 183(f) and 112 of the Act. Some commenters suggested that regulation under section 112 was inappropriate because section 183(f) specifically provides for regulation of tank vessel loading operations, whereas section 112 is a more general standard. On the other hand, one commenter believed that regulation was more appropriate, at least for certain facilities, under section 112.

The Agency believes that the best interpretation of the Clean Air Act requires that standards be issued under both sections 183(f) and 112. The language of section 112 of the Act is clear. ''[T]he Administrator shall publish * * * a list of *all* categories and subcategories of major sources and area sources of [HAP].'' Clean Air Act section 112(c)(1), 42 U.S.C. § 7412(c)(1) [emphasis added]. Further, the Administrator ''shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation pursuant to subsection (c).'' Clean Air Act section 112(d)(1), 42 U.S.C. § 7412(d)(1). The marine tank vessel loading operations source category is clearly a category of major sources, as defined in the Act. The Act is thus clear on its face that this source category should be regulated under section 112.

The fact that two separate sections of the Act regulate the same source category does not necessitate that one of the sections should be ignored. In fact, unless the regulations promulgated under one section would create an inescapable conflict with regulations promulgated under the other section, both must be followed. The regulations promulgated under section 112 are not in conflict with those promulgated under section 183(f). EPA believes that any source regulated under both sections would have no problem meeting the requirements of both standards at the same time.

Congress often provides for regulation of sources under two separate sections. The legislative history indicates that Congress was well aware that sources could be subject to dual regulation under section 112 and other sections of the Act. *See* page 167 of the Senate Committee Report (Report 101–228). In addition, where Congress wanted one section of the Clean Air Act to be exclusive of further regulation under

section 112(d), they said so explicitly; *see* sections 129(h)(2), 112(d)(9). Thus, Congress could have added specific language to section 183(f) preventing the Agency from regulating this source category under section 112; however, it did not do so.

In addition, neither the statute nor the legislative history indicates that Congress intended EPA regulations under section 183(f) to be the exclusive regulation of these sources. In fact, section 183(f) explicitly provides that states may regulate tank vessel loading processes and, in fact, *requires* that any such regulations be as stringent or *more* stringent than the Agency's regulations under section 183(f).

IV. Administrative Requirements

A. Docket

The Docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The Docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system allows members of the public and industries to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and the EPA responses to significant comments, the contents of the Docket will serve as the record in case of judicial review [section 307(d)(7)(A)].

B. Paperwork Reduction Act

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number (2060–0289). An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1679.02) to reflect the changed information requirements of the final rule.

This collection of information has an estimated burden per affected facility of about 685 hours for the first year. In subsequent years, the burden is approximately 280 hours per affected facility. These burden estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Director, Regulatory Information Division, EPA, 401 M St., S.W. (Mail Code 2136), Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.''

C. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the EPA is required to judge whether a regulation is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order to prepare a regulatory impact analysis (RIA). The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising from legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' because it will have an annual effect on the economy of $100 million or more. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record (see Docket A–90–44, Item Number IV–H–2).

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the EPA to consider potential impacts of proposed regulations on small business ''entities,'' which are small businesses, small organizations, and small governments. It is EPA's current policy to perform a regulatory flexibility analysis whenever a regulation is anticipated to adversely affect any small entities. An economic impact and regulatory flexibility analysis for this regulation was performed and included within the regulatory impact analysis that has been submitted to the public docket (Docket Number A–90–44, Item Number IV–A–2).

The regulatory flexibility analysis identified two types of businesses that could incur adverse economic impacts from this standard, marine terminal operations and marine vessel operations. With regard to marine terminal operations, only the very largest terminal operations are expected to be affected by this standard. The decision not to require controls at existing smaller operations greatly reduces the potential for adverse economic impacts on small terminal operations. Nevertheless, some of the smaller terminal operations that will be affected by this regulation could be put under increased competitive pressure as a result of this rule. Of these terminals, however, it is expected that few or none are independently owned. The rest are part of large integrated petroleum operations. The number of small business terminal operations affected by this regulation is expected to be minimal.

With regard to marine vessel operations, the economic impact analysis considered the majority of these operations to be small businesses. However, the number of vessel operations significantly impacted from the proposed standard is not expected to be substantial. Only a relatively small percentage of U.S. marine transported throughput will be impacted by the standard. Excluding crude oil volume shipped by large tankers from the VMT, no more than one-third of the remaining U.S. marine transported throughput is expected be impacted by the standard. It is expected that an even smaller percentage of U.S. vessels will need to be retrofitted to accommodate the volume of affected products. Only the largest and newest vessels (i.e., those that will cost least to retrofit) will therefore need to be retrofitted. Moreover, it is expected that vessel owners will be able to pass forward most retrofit costs in the form of higher prices. Vessels that cannot retrofit cost effectively and that cannot pass through costs can be dedicated to transporting unregulated products.

Economic Impacts

The EPA performed an economic impact analysis of the regulatory requirements in this regulation. Potential price, output, and employment impacts for affected products and for the marine transport industry were examined. Detailed results from the analysis are included in the regulatory impact analysis for this rule that has been submitted to the public docket.

Estimated maximum price increases for the affected products varied but were not large (less than 1%). These price-increase estimates reflect the control cost increases for transporting crude and products. Because these increases are small and because the elasticities of demand for petroleum products are small, estimated percent output reductions were minimal. Correspondingly, estimated employment reductions were also relatively small.

Potentially significant economic impacts on some of the smaller affected terminal operations were identified, although the decision not to require emission controls for existing smaller operations greatly reduces the potential for adverse impacts on small terminal operations. These potential impacts would result from the high per barrel control cost differential between the smaller and larger terminal operations that would need to control emissions. Some of these smaller terminal operations, to the extent that they are competing with nearby larger or unaffected terminal operations, could have had difficulty raising prices sufficiently to cover cost increases and could have been significantly and adversely impacted by this rule if the rule were applicable to such operations.

The potential economic impact on marine vessel owners was substantially reduced because of the decision not to require emission controls for small terminals in this rulemaking. Because only a relatively small percentage of U.S. marine transported volume of products will be impacted by the standard, only a relatively small percentage of U.S. marine vessels will need to retrofit. Thus only the vessels that will cost least to retrofit (most likely the larger, newer, double-skin vessels) will do so, leading to some degree of dedicated service. Vessel owners that do retrofit probably will be able to pass most retrofit costs forward in terms of higher prices.

E. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector of $100 million or more. The budgetary impact statement must include: (1) An identification of the Federal law under which the rule is promulgated; (2) a qualitative and quantitative assessment of anticipated costs and benefits of the Federal mandate and an analysis of the extent to which such costs to State, local, and tribal governments may be paid with Federal financial assistance; (3) if feasible, estimates of the future compliance costs and any disproportionate budgetary effects of the mandate; (4) if feasible, estimates of the effect on the national economy; and (5) a description of the Agency's prior consultation with elected representatives of State, local, and tribal governments and a summary and evaluation of the comments and concerns presented. Section 203 provides that if any small governments may be significantly or uniquely impacted by the rule, the Agency must establish a plan for obtaining input from and informing, educating, and advising any such potentially affected small governments.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative for State, local, and tribal governments and the private sector, that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments in aggregate or by the private sector of $60 million to $100 million per year starting in 2000, EPA has prepared a supplement to the Regulatory Impact Analysis (RIA) in compliance with the Unfunded Mandates Act. The EPA summarizes that supplement as follows:

This final rule is promulgated under section 112 and section 183(f) of the Clean Air Act. The analysis in the RIA developed in preparation of the proposed rule and revised in preparation of the final rule contains the information to be considered in response to the requirements of the Unfunded Mandates Act.

Total expenditures resulting from the final rule are estimated at between $60 million and $100 million (of which less than $75,000 is by State, local, and tribal governments) per year in 1997–2000; and $550,000 (of which $38,000 is by State, local, and tribal governments) per year starting in 2001. There are no federal funds available to assist State, local, and tribal governments in meeting these costs. There are important benefits from VOC and HAP emission reductions because these compounds have significant, adverse impacts on human health and welfare and on the environment. The rule does not have any disproportionate budgetary effects on any particular region of the nation, any State, local, or tribal government, or urban or rural or other type of community. On the contrary, the rule will result in only a minimal increase in the average product rates (less than 1 percent). Moreover, the rule will not have a material effect on the national economy.

Prior to issuing this rule, the EPA provided numerous opportunities (e.g., National Air Pollution Control Techniques Advisory Committee proceedings; public comment period; public hearing; meetings with industry, trade associations, state and local air pollution representatives; State, local, and tribal governments; and concerned citizens) for consultation with interested parties. In general, State and local environmental agencies advocated that EPA adopt more stringent environmental controls. The Agency evaluated the comments and concerns expressed, and the final rule reflects, to the extent consistent with sections 112 and 183(f) of the Act, those comments and concerns. While small governments are not significantly or uniquely affected by the rule, these procedures, as well as additional public conferences and meetings, gave small governments an opportunity to give meaningful and timely input and obtain information, education, and advice on compliance.

The Agency considered several regulatory options in developing the rule. As discussed above, the Agency has found that regulation solely under section 183(f) of the Act would not be consistent with the law. The options selected in the final rule for all subcategories of sources except the VMT subcategory are the least costly and least burdensome alternatives currently available for achieving the objectives of sections 112 and 183(f) of the Act. Regarding regulation of the VMT, the Agency notes that the cost effectiveness of controlling VOC at this terminal is approximately $1,050 per Mg and the cost effectiveness of controlling HAP is approximately $8,000 per Mg. The Agency initially received comments stating that the cost of controlling VOC at this terminal is high relative to the benefits of controlling VOC at a remote site in an Arctic ozone attainment area. Additionally, some commenters initially stated that the benefits of controlling HAP would not appear to justify the costs. However, the Agency has also considered later comments from the

APSC, the State of Alaska, the Prince William Sound Regional Citizens Advisory Committee (a local citizens group) and private citizens in determining MACT/RACT for the VMT. These commenters agreed that a Federal rule mandating control of the primary emissions at the APSC was acceptable. After careful consideration of the costs, the environmental impacts and the comments, the Agency decided that MACT for this subcategory was control beyond the level of the MACT floor (see Docket A–44–90, Item Number IV–B–2).

List of Subjects in 40 CFR Parts 9 and 63

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Tank vessel standards.

Dated: July 28, 1995.

Carol M. Browner,

Administrator.

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

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 135–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding a new entry to the table under the indicated heading in numerical order to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * * * *	
National Emissions Standards for Hazardous Air Pollutants for Source Categories.	
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63.563–63.567	2060–0289
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PART 63—[AMENDED]

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

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

2. By adding a new subpart Y consisting of §§ 63.560 through 63.567 to read as follows:

Subpart Y—National Emission Standards for Marine Tank Vessel Loading Operations

Sec.

Subpart Y—National Emission Standards for Marine Tank Vessel Tank Loading Operations

§ 63.560 Applicability and designation of affected source.

(a) *Maximum achievable control technology (MACT) standards.*

(1) The provisions of this subpart pertaining to the MACT standards in § 63.562(b) and (d) of this subpart are applicable to existing and new sources with emissions of 10 or 25 tons, as that term is defined in § 63.561, except as specified in paragraph (d) of this section, and are applicable to new sources with emissions less than 10 and 25 tons, as that term is defined in § 63.561, except as specified in paragraph (d) of this section.

(2) Existing sources with emissions less than 10 and 25 tons are not subject to the emissions standards in § 63.562(b) and (d).

(3) The recordkeeping requirements of § 63.567(j)(4) and the emission estimation requirements of § 63.565(l) apply to existing sources with emissions less than 10 and 25 tons.

(b) *Reasonably available control technology (RACT) standards.*

(1) The provisions of this subpart pertaining to RACT standards in § 63.562(c) and (d) of this subpart are applicable to sources with throughput of 10 M barrels or 200 M barrels, as that term is defined in § 63.561, except as specified in paragraph (d) of this section.

(2) Sources with throughput less than 10 M barrels and 200 M barrels, as that term is defined in § 63.561, are not subject to the emissions standards in § 63.562(c) and (d).

(c) *General Provisions applicability.* Owners or operators of affected sources, as that term is defined in § 63.561, of this subpart must comply with the requirements of subpart A of this part in accordance with the provisions for applicability of subpart A to this subpart in Table 1 of this section.

(d) *Exemptions from MACT and RACT standards.*

(1) This subpart does not apply to emissions resulting from marine tank vessel loading operations, as that term is defined in § 63.561, of commodities with vapor pressures less than 10.3 kilopascals (kPa) (1.5 pounds per square inch, absolute) (psia) at standard conditions, 20°C and 760 millimeters Hg (mm Hg).

(2) The provisions of this subpart pertaining to the MACT standards in § 63.562(b)(2), (3) and (4) and to the RACT standards in § 63.562(c)(3) and (4) do not apply to marine tank vessel loading operations where emissions are reduced by using a vapor balancing system, as that term is defined in § 63.561. The provisions pertaining to the vapor collection system, ship-to-shore compatibility, and vapor tightness of marine tank vessels in § 63.562(b)(1) and (c)(2) do apply.

(3) The provisions of this subpart pertaining to the MACT standards in § 63.562(b)(2), (3), and (4) do not apply to marine tank vessel loading operations that are contiguous with refinery operations at sources subject to and complying with subpart CC of this part, National Emissions Standards for Organic Hazardous Air Pollutants from Petroleum Refineries, except to the extent that any such provisions of this subpart are made applicable by subpart CC of this part.

(4) The provisions of this subpart pertaining to the MACT standards in § 63.562(b) and (d) do not apply to benzene emissions from marine tank vessel loading operations that are subject to and complying with 40 CFR part 61, subpart BB, National Emissions Standards for Benzene Emissions from Benzene Transfer Operations, except that benzene emissions or other HAP emissions (i.e., nonbenzene HAP emissions) from marine tank vessel loading operations that are not subject to subpart BB are subject to the provisions of this subpart.

(5) The provisions of this subpart pertaining to the MACT standards in § 63.562(b) and (d) do not apply to marine tank vessel loading operations at loading berths that only transfer liquids containing organic HAP as impurities, as that term is defined in § 63.561.

(6) The provisions of this subpart do not apply to marine tank vessel loading operations at existing offshore loading terminals, as that term is defined in § 63.561.

(7) The provisions of this subpart do not apply to ballasting operations, as that term is defined in § 63.561.

(e) *Compliance dates.*

(1) *MACT standards compliance dates, except the Valdez Marine Terminal (VMT) source.*

(i) A new or existing source with emissions of 10 or 25 tons, except the VMT source, and a new source with emissions less than 10 and 25 tons, except the VMT source, that has an initial startup date on or before September 20, 1999 shall comply with the provisions of this subpart pertaining to the MACT standards in § 63.562(b) no later than 4 years after the effective date.

(ii) A new source with emissions of 10 or 25 tons, except the VMT source, and a new source with emissions less than 10 and 25 tons, except the VMT source, that has an initial startup date after September 20, 1999 shall comply with provisions of this subpart pertaining to the MACT standards in § 63.562(b) immediately upon startup.

(iii) A source with emissions less than 10 and 25 tons that increases its emissions subsequent to September 20, 1999 such that it becomes a source with emissions of 10 or 25 tons shall comply with the provisions of this subpart pertaining to the MACT standards in § 63.562(b) within 3 years following the exceedance of the threshold level.

(2) *RACT standards compliance dates, except the VMT source.*

(i) A source with throughput of 10 M barrels or 200 M barrels, except the VMT source, with an initial startup date on or before September 21, 1998 shall comply with § 63.562(c)(1) no later than 2 years after the effective date.

(ii) A source with throughput of 10 M barrels or 200 M barrels, except the VMT source, with an initial startup date on or before September 21, 1998 shall comply with the provisions of this subpart pertaining to the RACT standards in § 63.562(c) other than § 63.562(c)(1), no later than 3 years after the effective date.

(iii) A source with throughput of 10 M barrels or 200 M barrels, except the VMT source, with an initial startup date after September 21, 1998 shall comply with the provisions of this subpart pertaining to the RACT standards in § 63.562(c) immediately upon startup.

(iv) A source with throughput less than 10 M barrels and 200 M barrels that increases its throughput subsequent to September 21, 1998 such that it becomes a source with throughput of 10 M barrels or 200 M barrels shall comply with the provisions of this subpart pertaining to the RACT standards in § 63.562(c) within 3 years following the exceedance of the threshold levels.

(v) A source with throughput of 10 M barrels or 200 M barrels may apply for approval from the Administrator for an extension of the compliance date of up to 1 year if it can demonstrate that the additional time is necessary for installation of the control device.

(3) *MACT and RACT compliance dates for the VMT source.*

The VMT source, as that term is defined in § 63.561, shall comply with the provisions of this subpart pertaining to the MACT and RACT standards in § 63.562(d) no later than 30 months after the effective date.

TABLE 1 OF § 63.560.—GENERAL PROVISIONS APPLICABILITY TO SUBPART Y

Reference	Applies to affected sources in subpart Y	Comment
63.1(a)(1)	Yes	Additional terms are defined in § 63.561; when overlap between subparts A and Y occurs, subpart Y takes precedence.
63.1(a)(2)	Yes	
63.1(a)(3)	Yes	
63.1(a)(4)	Yes	Subpart Y clarifies the applicability of each paragraph in subpart A to sources subject to subpart Y in this table.
.63.1(a)(5)	No	Reserved.
63.1(a)(6)	Yes	
63.1(a)(7)	Yes	
63.1(a)(8)	Yes	
63.1(a)(9)	No	Reserved.
63.1(a)(10)	Yes	
63.1(a)(11)	Yes	§ 63.567(a) also allows report submissions via facsimile and on electronic media.
63.1(a)(12)	Yes	
63.1(a)(13)	Yes	
63.1(a)(14)	Yes	
63.1(b)(1)	Yes	
63.1(b)(2)	Yes	
63.1(b)(3)	No	§ 63.560 specifies applicability.
63.1(c)(1)	Yes	Subpart Y clarifies the applicability of each paragraph in subpart A to sources subject to subpart Y in this table.
63.1(c)(2)	Yes	Subpart Y is not applicable to area sources.
63.1(c)(3)	No	Reserved.
63.1(c)(4)	Yes	

TABLE 1 OF § 63.560.—GENERAL PROVISIONS APPLICABILITY TO SUBPART Y—Continued

Reference	Applies to affected sources in subpart Y	Comment
63.1(c)(5)	No	§ 63.560 specifies applicability.
63.1(d)	No	Reserved.
63.1(e)	Yes	
63.2	Yes	Additional terms are defined in § 63.561; when overlap between subparts A and Y occurs, subpart Y takes precedence.
63.3	Yes	Other units used in subpart Y are defined in the text of subpart Y.
63.4(a)(1)	Yes	
63.4(a)(2)	Yes	
63.4(a)(3)	Yes	
63.4(a)(4)	No	Reserved.
63.4(a)(5)	Yes	
63.4(b)	Yes	
63.4(c)	Yes	
63.5(a)	Yes	
63.5(b)(1)(i)	Yes	
63.5(b)(1)(ii)	No	
63.5(b)(2)	No	Reserved.
63.5(b)(3)	Yes	
63.5(b)(4)–(5)	No	
63.5(b)(6)	Yes	
63.5(c)	No	Reserved.
63.5(d)(1)(i)	No	See § 63.566(b)(2).
63.5(d)(1)(ii)(A)(H)	Yes	
63.5(d)(1)(ii)(I)	No	Reserved.
63.5(d)(1)(ii)(J)	Yes	
63.5(d)(1)(iii)	Yes	
63.5(d)(2)–(4)	Yes	
63.5(e)	Yes	
63.5(f)(1)(i) and (ii)	Yes	
63.5(f)(1)(iii) and (iv)	No	
63.5(f)(2)	No	See § 63.566(c).
63.6(a)(1)	Yes	
63.6(a)(2)	No	§ 63.560 specifies applicability.
63.6(b)(1)–(5)	No	§ 63.560(e) specifies compliance dates for sources.
63.6(b)(6)	No	Reserved.
63.6(b)(7)	No	§ 63.560(e) specifies compliance dates for sources.
63.6(c)(1)	No	§ 63.560(e) specifies compliance dates for sources.
63.6(c)(2)	No	
63.6(c)(3)–(4)	No	Reserved.
63.6(c)(5)	No	§ 63.560(e) specifies compliance dates for sources.
63.6(d)	No	Reserved.
63.6(e)	No	See § 63.562(e).
63.6(f)(1)	Yes	
63.6(f)(2)(i)	Yes	
63.6(f)(2)(ii)	No	
63.6(f)(2)(iii)	Yes	
63.6(f)(2)(iv)	Yes	
63.6(f)(2)(v)	No	See § 63.562(e)(1).
63.6(f)(3)	Yes	
63.6(g)	Yes	
63.6(h)	No	No opacity monitoring is required under subpart Y.
63.6(i)(1)–(3)	Yes	
63.6(i)(4)(i)(A)	No	
63.6(i)(4)(i)(B)	Yes	
63.6(i)(4)(ii)	No	
63.6(i)(5)–(12)	Yes	
63.6(i)(13)	No	
63.6(i)(14)	Yes	
63.6(i)(15)	No	Reserved.
63.6(i)(16)	Yes	
63.6(j)	Yes	
63.7(a)(1)	Yes	
63.7(a)(2)(i)–(iv)	No	See § 63.563(b)(1).
63.7(a)(2)(v)	Yes	
63.7(a)(2)(vi)	No	
63.7(a)(2)(vii)–(viii)	No	Reserved.
63.7(a)(2)(ix)	No	
63.7(a)(3)	Yes	

TABLE 1 OF § 63.560.—GENERAL PROVISIONS APPLICABILITY TO SUBPART Y—Continued

Reference	Applies to affected sources in subpart Y	Comment
63.7(b)	Yes	
63.7(c)(1)–(2)	Yes	The site-specific test plan must be submitted only if requested by the Administrator.
63.7(c)(3)(i)–(ii)(A)	Yes	
63.7(c)(3)(ii)(B)	No	See § 63.565(m)(2).
63.7(c)(3)(iii)	Yes	
63.7(c)(4)	Yes	
63.7(d)	Yes	
63.7(e)	Yes	
63.7(f)	Yes	
63.7(g)(1)	Yes	
63.7(g)(2)	No	Reserved.
63.7(g)(3)	Yes	
63.7(h)	Yes	
63.8(a)(1)–(2)	Yes	
63.8(a)(3)	No	Reserved.
63.8(a)(4)	Yes	
63.8(b)(1)	Yes	
63.8(b)(2)	No	
63.8(b)(3)	Yes	
63.8(c)(1)(i)	Yes	
63.8(c)(1)(ii)	No	
63.8(c)(1)(iii)	Yes	
63.8(c)(2)	Yes	
63.8(c)(3)	Yes	
63.8(c)(4)	No	See § 63.564(a)(3).
63.8(c)(5)	No	
63.8(c)(6)	Yes	See also performance specifications for continuous monitoring systems § 63.564(a)(4).
63.8(c)(7)(i)(A)–(B)	Yes	See also § 63.564(a)(5).
63.8(c)(7)(i)(C)	No	
63.8(c)(7)(ii)	Yes	
63.8(c)(8)	No	See § 63.564(a)(5).
63.8(d)	No	See § 63.562(e)(2)(iv).
63.8(e)(1)–(4)	Yes	
63.8(e)(5)(i)	Yes	
63.8(e)(5)(ii)	No	
63.8(f)(1)	Yes	
63.8(f)(2)(i)–(vii)	Yes	
63.8(f)(2)(viii)	No	
63.8(f)(2)(ix)	Yes	
63.8(f)(3)–(6)	Yes	
63.8(g)	Yes	
63.9(a)(1)	Yes	
63.9(a)(2)	Yes	
63.9(a)(3)	Yes	
63.9(a)(4)	Yes	
63.9(b)(1)(i)	Yes	
63.9(b)(1)(ii)	No	See § 63.567(b)(1)
63.9(b)(1)(iii)	Yes	
63.9(b)(2)	No	See § 63.567(b)(2).
63.9(b)(3)	No	See § 63.567(b)(3).
63.9(b)(4)	No	See § 63.567(b)(4).
63.9(b)(5)	No	See § 63.567(b)(4).
63.9(c)	No	See § 63.567(c).
63.9(d)	No	
63.9(e)	Yes	
63.9(f)	No	
63.9(g)(1)	Yes	
63.9(g)(2)	No	
63.9(g)(3)	Yes	
63.9(h)(1)–(3)	Yes	
63.9(h)(4)	No	Reserved.
63.9(h)(5)–(6)	Yes	
63.9(i)	Yes	
63.9(j)	Yes	
63.10(a)	Yes	
63.10(b)(1)	Yes	
63.10(b)(2)(i)	No	
63.10(b)(2) (ii)–(iii)	Yes	

TABLE 1 OF § 63.560.—GENERAL PROVISIONS APPLICABILITY TO SUBPART Y—Continued

Reference	Applies to affected sources in subpart Y	Comment
63.10(b)(2)(iv)	No	
63.10(b)(2)(v)	No	
63.10(b)(2)(vi)–(xiv)	Yes	
63.10(b)(3)	No	See § 63.567(j)(4).
63.10(c)(1)	Yes	
63.10(c)(2)–(4)	No	Reserved.
63.10(c)(5)	Yes	
63.10(c)(6)	No	See § 63.564(a)(5).
63.10(c)(7)	No	
63.10(c)(8)	Yes	
63.10(c)(9)	No	Reserved.
63.10(c)(10)–(13)	Yes	
63.10(c)(14)	No	See § 63.562(d)(2)(iv).
63.10(c)(15)	No	
63.10(d)(1)–(2)	Yes	
63.10(d)(3)	No	See § 63.567(d).
63.10(d)(4)	Yes	
63.10(d)(5)	No	
63.(10)(e)(1)	Yes	
63.10(e)(2)(i)	Yes	
63.10(e)(2)(ii)	No	
63.10(e)(3)(i)–(v)	No	See § 63.567(e)
63.10(e)(3)(vi).	Yes	
63.10(e)(3)(vii)–(viii)	No	See § 63.567(e)
63.10(e)(4)	No	
63.10(f)	Yes	
63.11	Yes	
63.12–63.15	Yes	

§ 63.561 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act or in subpart A of this part.

Affected source means a source with emissions of 10 or 25 tons, a new source with emissions less than 10 and 25 tons, a new major source offshore loading terminal, a source with throughput of 10 M barrels or 200 M barrels, or the VMT source, that is subject to the emissions standards in § 63.562.

Air pollution control device or *control device* means a combustion device or vapor recovery device.

Ballasting operations means the introduction of ballast water into a cargo tank of a tankship or oceangoing barge.

Baseline operating parameter means a minimum or maximum value of a process parameter, established for a control device during a performance test where the control device is meeting the required emissions reduction or established as the manufacturer recommended operating parameter, that, if achieved by itself or in combination with one or more other operating parameters, determines if a control device is operating properly.

Boiler means a device that combusts any fuel and produces steam or heats water or any other heat transfer medium. This term includes any duct burner that combusts fuel and is part of a combined cycle system.

Car-seal means a seal that is placed on a device used to change the position of a valve (e.g., from open to closed) in such a way that the position of the valve cannot be changed without breaking the seal.

Combustion device means all equipment, including, but not limited to, thermal incinerators, catalytic incinerators, flares, boilers, and process heaters used for combustion or destruction of organic vapors.

Commenced means, with respect to construction of an air pollution control device, that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

Commodity means a distinct product that a source loads onto marine tank vessels.

Continuous means, with respect to monitoring, reading and recording (either in hard copy or computer readable form) of data values measured at least once every 15 minutes.

Crude oil means a naturally occurring mixture consisting predominantly of hydrocarbons and/or sulfur, nitrogen, and oxygen derivatives of hydrocarbons that is removed from the earth in a liquid state or is capable of being so removed.

Exceedance or *Variance* means, with respect to parametric monitoring, the operating parameter of the air pollution control device that is monitored as an indication of proper operation of the control device is outside the acceptable range or limits for the baseline parameter given in § 63.563(b)(4) through (9).

Excess emissions means, with respect to emissions monitoring, the concentration of the outlet stream of the air pollution control device is outside the acceptable range or limits for the baseline concentration given in § 63.563(b)(4) through (9).

Flow indicator means a device that indicates whether gas flow is present in a line or vent system.

Gasoline means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kPa (4.0 psia) or greater, that is used as a fuel for internal combustion engines.

Impurity means HAP substances that are present in a commodity or that are produced in a process coincidentally with the primary product or commodity and that are 0.5 percent total HAP by weight or less. An impurity does not serve a useful purpose in the production

or use of the primary product or commodity and is not isolated.

Leak means a reading of 10,000 parts per million volume (ppmv) or greater as methane that is determined using the test methods in Method 21, appendix A of part 60 of this chapter.

Lightering or *Lightering operation* means the offshore transfer of a bulk liquid cargo from one marine tank vessel to another vessel.

Loading berth means the loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill marine tank vessels. The loading berth includes those items necessary for an offshore loading terminal.

Loading cycle means the time period from the beginning of filling a single marine tank vessel until commodity flow to the marine tank vessel ceases.

Maintenance allowance means a period of time that an affected source is allowed to perform maintenance on the loading berth without controlling emissions from marine tank vessel loading operations.

Marine tank vessel loading operation means any operation under which a commodity is bulk loaded onto a marine tank vessel from a terminal, which may include the loading of multiple marine tank vessels during one loading operation. Marine tank vessel loading operations do not include refueling of marine tank vessels.

Marine vessel or *Marine tank vessel* means any tank ship or tank barge that transports liquid product such as gasoline or crude oil in bulk.

Nonvapor-tight means any marine tank vessel that does not pass the required vapor-tightness test.

Offshore loading terminal means a location that has at least one loading berth that is 0.81 km (0.5 miles) or more from the shore that is used for mooring a marine tank vessel and loading liquids from shore.

Primary fuel means the fuel that provides the principal heat input to the device. To be considered primary, the fuel must be able to sustain operation of the device without the addition of other fuels.

Process heater means a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all fluids except water that are heated to produce steam.

Recovery device means an individual unit of equipment, including, but not limited to, a carbon adsorber, condenser/refrigeration unit, or absorber that is capable of and used for the purpose of removing vapors and recovering liquids or chemicals.

Routine loading means, with respect to the VMT source, marine tank vessel loading operations that occur as part of normal facility operation over a loading berth when no loading berths are inoperable due to maintenance.

Secondary fuel means any fuel other than the primary fuel. The secondary fuel provides supplementary heat in addition to the heat provided by the primary fuel and is generally fired through a burner other than the primary burner.

Source(s) means any location where at least one dock or loading berth is bulk loading onto marine tank vessels, except offshore drilling platforms and lightering operations.

Source(s) with emissions less than 10 and 25 tons means major source(s) having aggregate actual HAP emissions from marine tank vessel loading operations at all loading berths as follows:

(1) Prior to the compliance date, of less than 9.1 Mg (10 tons) of each individual HAP calculated on a 24-month annual average basis after September 19, 1997 and less than 22.7 Mg (25 tons) of all HAP combined calculated on a 24-month annual average basis after September 19, 1997, as determined by emission estimation in § 63.565(l) of this subpart; and

(2) After the compliance date, of less than 9.1 Mg (10 tons) of each individual HAP calculated annually after September 20, 1999 and less than 22.7 Mg (25 tons) of all HAP combined calculated annually after September 20, 1999, as determined by emission estimation in § 63.565(l) of this subpart.

Source(s) with emissions of 10 or 25 tons means major source(s) having aggregate actual HAP emissions from marine tank vessels loading operations at all loading berths as follows:

(1) Prior to the compliance date, emissions of 9.1 Mg (10 tons) or more of each individual HAP calculated on a 24-month annual average basis after September 19, 1997 or of 22.7 Mg (25 tons) or more of all HAP combined calculated on a 24-month annual average basis after September 19, 1997, as determined by emission estimation in § 63.565(l); or

(2) After the compliance date, emissions of 9.1 Mg (10 tons) or more of each individual HAP calculated annually after September 20, 1999 or of 22.7 Mg (25 tons) or more of all HAP combined calculated annually after September 20, 1999, as determined by emission estimation in § 63.565(l).

Source(s) with throughput less than 10 M barrels and 200 M barrels means source(s) having aggregate loading from marine tank vessel loading operations at all loading berths as follows:

(1) Prior to the compliance date, of less than 1.6 billion liters (10 million (M) barrels) of gasoline on a 24-month annual average basis and of less than 32 billion liters (200 M barrels) of crude oil on a 24-month annual average basis after September 19, 1996; and

(2) After the compliance date, of less than 1.6 billion liters (10 M barrels) of gasoline annually and of less than 32 billion liters (200 M barrels) of crude oil annually after September 21, 1998.

Source(s) with throughput of 10 M barrels or 200 M barrels means source(s) having aggregate loading from marine tank vessel loading operations at all loading berths as follows:

(1) Prior to the compliance date, of 1.6 billion liters (10 M barrels) or more of gasoline on a 24-month annual average basis or of 32 billion liters (200 M barrels) or more of crude oil on a 24-month annual average basis after September 19, 1996; or

(2) After the compliance date, of 1.6 billion liters (10 M barrels) or more of gasoline annually or of 32 billion liters (200 M barrels) or more of crude oil annually after September 21, 1998.

Terminal means all loading berths at any land or sea based structure(s) that loads liquids in bulk onto marine tank vessels.

Twenty-four-month (24-month) annual average basis means annual HAP emissions, with respect to MACT standards, or annual loading throughput, with respect to RACT standards, from marine tank vessel loading operations averaged over a 24-month period.

Valdez Marine Terminal (VMT) source means the major source that is permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. § 1651 *et seq.*). The source is located in Valdez, Alaska in Prince William Sound.

Vapor balancing system means a vapor collection system or piping system that is designed to collect organic HAP vapors displaced from marine tank vessels during marine tank vessel loading operations and that is designed to route the collected organic HAP vapors to the storage vessel from which the liquid being loaded originated or to compress collected organic HAP vapors and commingle with the raw feed of a process unit.

Vapor collection system means any equipment located at the source, i.e., at the terminal, that is not open to the atmosphere, that is composed of piping, connections, and flow inducing devices, and that is used for containing and transporting vapors displaced during

the loading of marine tank vessels to a control device or for vapor balancing. This does not include the vapor collection system that is part of any marine vessel vapor collection manifold system.

Vapor-tight marine vessel means a marine tank vessel that has demonstrated within the preceding 12 months to have no leaks. A marine tank vessel loaded at less than atmospheric pressure is assumed to be vapor tight for the purpose of this standard.

Volatile organic compounds or *VOC* is as defined in 40 CFR 51.100(s) of this chapter.

§ 63.562 Standards.

(a) The emissions limitations in paragraphs (b), (c), and (d) of this section apply during marine tank vessel loading operations.

(b) *MACT standards, except for the VMT source.*

(1)(i) *Vapor collection system of the terminal.* The owner or operator of a new source with emissions less than 10 and 25 tons and an existing or new source with emissions of 10 or 25 tons shall equip each terminal with a vapor collection system that is designed to collect HAP vapors displaced from marine tank vessels during marine tank vessel loading operations and to prevent HAP vapors collected at one loading berth from passing through another loading berth to the atmosphere, except for those commodities exempted under § 63.560(d).

(ii) *Ship-to-shore compatibility.* The owner or operator of a new source with emissions less than 10 and 25 tons and an existing or new source with emissions of 10 or 25 tons shall limit marine tank vessel loading operations to those vessels that are equipped with vapor collection equipment that is compatible with the terminal's vapor collection system, except for those commodities exempted under § 63.560(d).

(iii) *Vapor tightness of marine vessels.* The owner or operator of a new source with emissions less than 10 and 25 tons and an existing or new source with emissions of 10 or 25 tons shall limit marine tank vessel loading operations to those vessels that are vapor tight and to those vessels that are connected to the vapor collection system, except for those commodities exempted under § 63.560(d).

(2) *MACT standards for existing sources with emissions of 10 or 25 tons.* The owner or operator of an existing source with emissions of 10 or 25 tons, except offshore loading terminals and the VMT source, shall reduce captured HAP emissions from marine tank vessel loading operations by 97 weight-percent, as determined using methods in § 63.565 (d) and (l).

(3) *MACT standards for new sources.* The owner or operator of a new source with emissions less than 10 and 25 tons or a new source with emissions of 10 or 25 tons, except offshore loading terminals and the VMT source, shall reduce HAP emissions from marine tank vessel loading operations by 98 weight-percent, as determined using methods in § 63.565 (d) and (l).

(4) *MACT standards for new major source offshore loading terminals.* The owner or operator of a new major source offshore loading terminal shall reduce HAP emissions from marine tank vessel loading operations by 95 weight-percent, as determined using methods in § 63.565 (d) and (l).

(5) *Prevention of carbon adsorber emissions during regeneration.* The owner or operator of a source subject to paragraph (b)(2), (3), or (4) shall prevent HAP emissions from escaping to the atmosphere from the regeneration of the carbon bed when using a carbon adsorber to control HAP emissions from marine tank vessel loading operations.

(6) *Maintenance allowance for loading berths.* The owner or operator of a source subject to paragraph (b)(2), (3) or (4), may apply for approval to the Administrator for a maintenance allowance for loading berths based on a percent of annual throughput or annual marine tank vessel loading operation time for commodities not exempted in § 63.560(d). The owner or operator shall maintain records for all maintenance performed on the air pollution control equipment. The Administrator will consider the following in approving the maintenance allowance:

(i) The owner or operator expects to be in violation of the emissions standards due to maintenance;

(ii) Due to conditions beyond the reasonable control of the owner or operator, compliance with the emissions standards during maintenance would result in unreasonable economic hardship;

(iii) The economic hardship cannot be justified by the resulting air quality benefit;

(iv) The owner or operator has given due consideration to curtailing marine vessel loading operations during maintenance;

(v) During the maintenance allowance, the owner or operator will endeavor to reduce emissions from other loading berths that are controlled as well as from the loading berth the owner or operator is seeking the maintenance allowance; and

(vi) During the maintenance allowance, the owner or operator will monitor and report emissions from the loading berth to which the maintenance allowance applies.

(c) *RACT standards, except the VMT source.*

(1) *Commencement of construction.* The owner or operator of a source with throughput of 10 M barrels or 200 M barrels, except the VMT source, with an initial startup date on or before September 21, 1998 shall provide the Agency no later than 2 years after the effective date with proof that it has commenced construction of its vapor collection system and air pollution control device.

(2) (i) *Vapor collection system of the terminal.* The owner or operator of a source with throughput of 10 M barrels or 200 M barrels shall equip each terminal with a vapor collection system that is designed to collect VOC vapors displaced from marine tank vessels during loading and to prevent VOC vapors collected at one loading berth from passing through another loading berth to the atmosphere, except for those commodities exempted under § 63.560(d).

(ii) *Ship-to-shore compatibility.* The owner or operator of a source with throughput of 10 M barrels or 200 M barrels shall limit marine tank vessel loading operations to those vessels that are equipped with vapor collection equipment that is compatible with the terminal's vapor collection system, except for those commodities exempted under § 63.560(d).

(iii) *Vapor tightness of marine vessels.* The owner or operator of a source with throughput of 10 M barrels or 200 M barrels shall limit marine tank vessel loading operations to those vessels that are vapor-tight and to those vessels that are connected to the vapor collection system, except for those commodities exempted under § 63.560(d).

(3) *RACT standard for sources with throughput of 10 M or 200 M barrels, except the VMT source.* The owner or operator of a source with throughput of 10 M barrels or 200 M barrels, except the VMT source, shall reduce captured VOC emissions from marine tank vessel loading operations by 98 weight-percent when using a combustion device or reduce captured VOC emissions by 95 weight-percent when using a recovery device, as determined using methods in § 63.565(d) and (l).

(4) The owner or operator of a source with throughput of 10 M barrels or 200 M barrels, except the VMT source, may meet the requirements of paragraph (c)(3) by reducing gasoline loading

emissions to, at most, 1,000 ppmv outlet VOC concentration.

(5) *Prevention of carbon adsorber emissions during regeneration.* The owner or operator of a source with throughput of 10 M barrels or 200 M barrels shall prevent HAP emissions from escaping to the atmosphere from the regeneration of the carbon bed when using a carbon adsorber to control HAP emissions from marine tank vessel loading operations.

(6) *Maintenance allowance for loading berths.* The owner or operator of a source with throughput of 10 M barrels or 200 M barrels may apply for approval to the Administrator for a maintenance allowance for loading berths based on a percent of annual throughput or annual marine tank vessel loading operation time for commodities not exempted in § 63.560(d). The owner or operator shall maintain records for all maintenance performed on the air pollution control equipment. The Administrator will consider the following in approving the maintenance allowance:

(i) The owner or operator expects to be in violation of the emissions standards due to maintenance;

(ii) Due to conditions beyond the reasonable control of the owner or operator, compliance with the emissions standards during maintenance would result in unreasonable economic hardship;

(iii) The economic hardship cannot be justified by the resulting air quality benefit;

(iv) The owner or operator has given due consideration to curtailing marine vessel loading operations during maintenance;

(v) During the maintenance allowance, the owner or operator will endeavor to reduce emissions from other loading berths that are controlled as well as from the loading berth the owner or operator is seeking the maintenance allowance; and

(vi) During the maintenance allowance, the owner or operator will monitor and report emissions from the loading berth to which the maintenance allowance applies.

(d) *MACT and RACT standards for the VMT source.*

(1) (i) *Vapor collection system of the terminal.* The owner or operator of the VMT source shall equip each terminal subject under paragraph (d)(2) with a vapor collection system that is designed to collect HAP vapors displaced from marine tank vessels during marine tank vessel loading operations and to prevent HAP vapors collected at one loading berth from passing through another loading berth to the atmosphere, except for those commodities exempted under § 63.560(d).

(ii) *Ship-to-shore compatibility.* The owner or operator of the VMT source shall limit marine tank vessel loading operations at berths subject under paragraph (d)(2) of this section to those vessels that are equipped with vapor collection equipment that is compatible with the terminal's vapor collection system, except for those commodities exempted under § 63.560(d).

(iii) *Vapor tightness of marine vessels.* The owner or operator of the VMT source shall limit marine tank vessel loading operations at berths subject under paragraph (d)(2) of this section to those vessels that are vapor-tight and to those vessels that are connected to the vapor collection system, except for those commodities exempted under § 63.560(d).

(2) The owner or operator of the VMT source shall reduce captured HAP and VOC emissions by 98 weight-percent, as determined using methods in § 63.565(d) and (l) for loading berths subject under this paragraph according to paragraphs (d)(2)(i), (ii), (iii), and (iv):

(i) The owner or operator of the VMT source shall equip at least two loading berths and any additional berths indicated pursuant to paragraph (d)(2)(iii) with a vapor collection system and air pollution control device and shall load marine tank vessels over loading berths equipped with a vapor collection system and control device to the maximum extent practicable. The owner or operator shall equip all loading berths that will be used for routine loading after March 19, 1998 with a vapor collection system and control device if the annual average daily loading rate for all loading berths exceeds the limits in paragraphs (d)(2)(i)(A), (B), and (C) of this section.

(A) For 1995, 1,630,000 barrels per day; and

(B) For 1996, 1,546,000 barrels per day; and

(C) For 1997, 1,445,000 barrels per day.

(ii) Maximum extent practicable means that the total annual average daily loading over all loading berths not equipped with a vapor collection system and control device shall not exceed the totals in paragraphs (d)(2)(ii)(A) and (B):

(A) *Loading allowances for marine tank vessel loading operations at loading berths not equipped with control devices.* The following maximum annual average daily loading rate for routine loading at loading berths not equipped with control devices in any of the following years shall not exceed:

(*a*) For 1998, 275,000 barrels per day;

(*b*) For 1999, 205,000 barrels per day;

(*c*) For 2000, 118,000 barrels per day;

(*d*) For 2001, 39,000 barrels per day; and

(*e*) For 2002 and subsequent years, no marine tank vessel loading operations shall be performed at berths not equipped with a vapor collection system and control device, except as allowed for maintenance under paragraph (B).

(B) *Maintenance allowances for loading berths subject under paragraph (d)(2)(i).* Beginning in the year 2000, the owner or operator of the VMT source may have a maximum of 40 calendar days per calendar year use of loading berths not equipped with a vapor collection system and control device, in accordance with the limits in paragraph (d)(2)(ii)(B)(*a*), (*b*), or (*c*), to allow for maintenance of loading berths subject to paragraph (d)(2)(i). Beginning in the year 2002, the total annual average daily loading of crude oil over all loading berths not equipped with a vapor collection system and control device shall not exceed the amount stated in paragraph (d)(2)(ii)(B)(*b*). The 40 days allowed for maintenance shall be converted into a compliance measure of annual average daily loading over the loading berths not equipped with a vapor collection system and control device as follows:

(*a*) If the total annual average daily volume of crude oil loaded at the facility was greater than or equal to 1,100,000 barrels per day in the prior calendar year, the maintenance allowance shall not exceed an annual average daily loading of 60,000 barrels per day.

(*b*) If the total annual average daily volume of crude oil loaded at the facility was less than 1,100,000 barrels per day and greater than or equal to 550,000 barrels per day in the prior calendar year, the maintenance allowance for the calendar year shall not exceed Q_m:

$$Q_m = \frac{(P - 550{,}000) \times 40}{365}$$

Where:

Q_m = maintenance allowance, barrels per day

P = prior calendar year's average daily volume of crude oil loaded at the facility, barrels per day.

(*c*) If the total annual average daily volume of crude oil loaded at the facility was less than 550,000 barrels per day in the prior calendar year, there shall be no maintenance allowance.

(iii) If the average daily loading rate for the loading berths not equipped with a vapor collection system and control device is greater than the combined

amounts in any year listed in paragraphs (d)(2)(i)(A), (B), and (C) and (d)(2)(ii)(A) and (B), then the owner or operator of the VMT source shall equip all loading berths used for routine loading with a vapor collection system and control device within 2 years of the exceedance except that in an emergency situation the Administrator may, instead of requiring controls, approve an alternative plan to reduce loading over the unequipped berth(s) to a level which will ensure compliance with the applicable limit. Beginning in the year 2002, the owner or operator of the VMT source shall equip all uncontrolled loading berths used for marine tank vessel loading operations beyond the maintenance allowance in paragraph (d)(2)(ii)(B) with a vapor collection system and control device.

(iv) The owner or operator of the VMT source shall develop a program to communicate to relevant facility operations and marine transportation personnel and engage their active and consistent participation in honoring the intent and goal of minimizing loaded volumes over the unequipped berths and maximizing the loaded volumes at the berths equipped with a vapor collection system and control device to prevent exceedance of the load volume limits in paragraphs (d)(2)(ii)(A) and (B). This program is to be presented semi-annually during the first year of compliance and annually thereafter until the use of unequipped berths for routine loading is no longer required.

(3) The owner or operator of the VMT source shall submit annual reports on or before January 31 of each year to the Administrator certifying the annual average daily loading rate for the previous calendar year. Beginning on January 31, 1996, for the reported year 1995, the annual report shall specify the annual average daily loading rate over all loading berths. Beginning on January 31, 1999, for the reported year 1998, the annual report shall specify the annual average daily loading rate over all loading berths, over each loading berth equipped with a vapor collection system and control device, and over each loading berth not equipped with a vapor collection system and control device. The annual average daily loading rate under this section is calculated as the total amount of crude oil loaded during the calendar year divided by 365 days or 366 days, as appropriate.

(e) *Operation and maintenance requirements for air pollution control equipment and monitoring equipment for affected sources.* At all times, including periods of startup, shutdown, and malfunction, owners or operators of affected sources shall operate and maintain a source, including associated air pollution control equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether acceptable operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(1) The Administrator will determine compliance with design, equipment, work practice, or operational emission standards by evaluating an owner or operator's conformance with operation and maintenance requirements.

(2) The owner or operator of an affected source shall develop and implement a written operation and maintenance plan that describes in detail a program of corrective action for varying (i.e., exceeding baseline parameters) air pollution control equipment and monitoring equipment, based on monitoring requirements in § 63.564, used to comply with these emissions standards. The plan shall also identify all routine or otherwise predictable continuous monitoring system (thermocouples, pressure transducers, continuous emissions monitors (CEMS), etc.) variances.

(i) The plan shall specify procedures (preventive maintenance) to be followed to ensure that pollution control equipment and monitoring equipment functions properly and variances of the control equipment and monitoring equipment are minimal.

(ii) The plan shall identify all operating parameters to be monitored and recorded for the air pollution control device as indicators of proper operation and shall establish the frequency at which the parameters will be monitored (see § 63.564).

(iii) Owners or operators of affected sources shall incorporate a standardized inspection schedule for each component of the control device used to comply with the emissions standards in § 63.562(b), (c), and (d). To satisfy the requirements of this paragraph, the owner or operator may use the inspection schedule recommended by the vendor of the control system or any other technical publication regarding the operation of the control system.

(iv) Owners or operators shall develop and implement a continuous monitoring system (CMS) quality control program. The owner or operator shall develop and submit to the Administrator for approval upon request a site-specific performance evaluation test plan for the CMS performance evaluation required in § 63.8(e) of subpart A of this part. Each quality control program shall include, at a minimum, a written protocol that describes procedures for initial and any subsequent calibration of the CMS; determination and adjustment of the calibration drift of the CMS; preventive maintenance of the CMS, including spare parts inventory; data recording, calculations, and reporting; and accuracy audit procedures, including sampling and analysis methods. The owner or operation shall maintain records of the procedures that are part of the quality control program developed and implemented for CMS.

(3) Based on the results of the determination made under paragraph (e)(2), the Administrator may require that an owner or operator of an affected source make changes to the operation and maintenance plan for that source. Revisions may be required if the plan:

(i) Does not address a variance of the air pollution control equipment or monitoring equipment that has occurred that increases emissions;

(ii) Fails to provide for operation during a variance of the air pollution control equipment or the monitoring equipment in a manner consistent with safety and good air pollution control practices; or

(iii) Does not provide adequate procedures for correcting a variance of the air pollution control equipment or monitoring equipment as soon as reasonable.

(4) If the operation and maintenance plan fails to address or inadequately addresses a variance event at the time the plan was initially developed, the owner or operator shall revise the operation and maintenance plan within 45 working days after such an event occurs. The revised plan shall include procedures for operating and maintaining the air pollution control equipment or monitoring equipment during similar variance events and a program for corrective action for such events.

(5) The operation and maintenance plan shall be developed by the source's compliance date. The owner or operator shall keep the written operation and maintenance plan on record to be made available for inspection, upon request, by the Administrator for the life of the source. In addition, if the operation and maintenance plan is revised, the owner or operator shall keep previous (i.e., superseded) versions of the plan on record to be made available for inspection upon request by the Administrator for a period of 5 years after each revision to the plan.

(6) To satisfy the requirements of the operation and maintenance plan, the owner or operator may use the source's standard operating procedures (SOP) manual, an Occupational Safety and Health Administration (OSHA) plan, or other existing plans provided the alternative plans meet the requirements of this section and are made available for inspection when requested by the Administrator.

§ 63.563 Compliance and performance testing.

(a) The following procedures shall be used to determine compliance with the emissions limits under § 63.562(b)(1), (c)(2), and (d)(1):

(1) *Vent stream by-pass requirements for the terminal's vapor collection system.*

(i) In accordance with § 63.562(b)(1)(i), (c)(2)(i), and (d)(1)(i), each valve in the terminal's vapor collection system that would route displaced vapors to the atmosphere, either directly or indirectly, shall be secured closed during marine tank vessel loading operations either by using a car-seal or a lock-and-key type configuration, or the by-pass line from the valve shall be equipped with a flow indicator, except for those valves used for pressure/vacuum relief, analyzers, instrumentation devices, sampling, and venting for maintenance. Marine tank vessel loading operations shall not be performed with open by-pass lines.

(ii) Repairs shall be made to valves, car-seals, or closure mechanisms no later than 15 days after a change in the position of the valve or a break in the car-seal or closure mechanism is detected or no later than prior to the next marine tank vessel loading operation, whichever is later.

(2) *Ship-to-shore compatibility of vapor collection systems.* Following the date on which the initial performance test is completed, marine tank vessel loading operations must be performed only if the marine tank vessel's vapor collection equipment is compatible to the terminal's vapor collection system; marine tank vessel loading operations must be performed only when the marine tank vessel's vapor collection equipment is connected to the terminal's vapor collection system, as required in § 63.562(b)(1)(ii), (c)(2)(ii), and (d)(1)(ii).

(3) *Pressure/vacuum settings for the marine tank vessel's vapor collection equipment.* During the initial performance test required in paragraph (b)(1) of this section, the owner or operator of an affected source shall demonstrate compliance with operating pressure requirements of 33 CFR 154.814 using the procedures in § 63.565(b).

(4) *Vapor-tightness requirements of the marine vessel.* The owner or operator of an affected source shall use the procedures in paragraph (a)(4)(i), (ii), (iii), or (iv) of this section to ensure that marine tank vessels are vapor tight, as required in § 63.562(b)(1)(iii), (c)(2)(iii), and (d)(1)(iii).

(i) *Pressure test documentation for determining vapor tightness of the marine vessel.* The owner or operator of a marine tank vessel, who loads commodities containing HAP not determined to be exempt under § 63.560(d) at an affected source, shall provide a copy of the vapor-tightness pressure test documentation described in § 63.567(i) for each marine tank vessel prior to loading. The date of the test listed in the documentation must be within the preceding 12 months, and the test must be conducted in accordance with the procedures in § 63.565(c)(1). Following the date on which the initial performance test is completed, the affected source must check vapor-tightness pressure test documentation for marine tank vessels loaded at positive pressure.

(ii) *Leak test documentation for determining vapor tightness of the marine vessel.* If no documentation of the vapor tightness pressure test as described in paragraph (a)(4)(i) of this section is available, the owner or operator of a marine tank vessel, who loads commodities containing HAP not determined to be exempt under § 63.560(d) at an affected source, shall provide the leak test documentation described in § 63.567(i) for each marine tank vessel prior to loading. The date of the test listed in the documentation must be within the preceding 12 months, and the test must be conducted in accordance with the procedures in § 63.565(c)(2). If the marine tank vessel has failed its most recent vapor-tightness leak test at that terminal, the owner or operator of the non-vapor-tight marine tank vessel shall provide documentation that the leaks detected during the previous vapor-tightness test have been repaired and documented with a successful vapor-tightness leak test described in § 63.565(c)(2) conducted during loading. If the owner or operator of the marine tank vessel can document that repair is technically infeasible without cleaning and gas freeing or dry-docking the vessel, the owner or operator of the affected source may load the marine tank vessel. Following the date on which the initial performance test is completed, an affected source must check the vapor-tightness leak test documentation for marine tank vessels loaded at positive pressure.

(iii) *Leak test performed during loading using Method 21 for determining vapor tightness of the marine vessel.* If no documentation of vapor tightness as described in paragraphs (a)(4)(i) or (ii) of this section is available, the owner or operator of a marine tank vessel, who loads commodities containing HAP not determined to be exempt under § 63.560(d) at an affected source, shall perform a leak test of the marine tank vessel during marine tank vessel loading operation using the procedures described in § 63.565(c)(2).

(A) If no leak is detected, the owner or operator of a marine tank vessel shall complete the documentation described in § 63.567(i) prior to departure of the vessel.

(B) If a leak is detected, the owner or operator of the marine tank vessel shall document the vapor-tightness failure for the marine tank vessel prior to departure of the vessel. The leaking component shall be repaired prior to the next marine tank vessel loading operation at a controlled terminal unless the repair is technically infeasible without cleaning and gas freeing or dry-docking the vessel. If the owner or operator of the vessel provides documentation that repair of such equipment is technically infeasible without cleaning and gas freeing or dry-docking the vessel, the equipment responsible for the leak will be excluded from future Method 21 tests until repairs are effected. A copy of this documentation shall be maintained by the owner or operator of the affected source. Repair of the equipment responsible for the leak shall occur the next time the vessel is cleaned and gas freed or dry-docked. For repairs that are technically feasible without dry-docking the vessel, the owner or operator of the affected source shall not load the vessel again unless the marine tank vessel owner or operator can document that the equipment responsible for the leak has been repaired.

(iv) *Negative pressure loading.* The owner or operator of an affected source shall ensure that a marine tank vessel is loaded with the product tank below atmospheric pressure (i.e., at negative gauge pressure). The pressure shall be measured between the facility's vapor connection and its manual isolation valve, and the measured pressure must be below atmospheric pressure. Following the date on which the initial performance test is completed, marine tank vessel loading operations for nonvapor-tight vessels must be performed below atmospheric pressure

(i.e., at negative gauge pressure) in the product tank.

(b) *Compliance determination for affected sources.* The following procedures shall be used to determine compliance with the emissions limits under § 63.562(b), (c), and (d).

(1) *Initial performance test.* An initial performance test shall be conducted using the procedures listed in § 63.7 of subpart A of this part according to the applicability in Table 1 of § 63.560, the procedures listed in this section, and the test methods listed in § 63.565. The initial performance test shall be conducted within 180 days after the compliance date for the specific affected source. During this performance test, sources subject to MACT standards under § 63.562(b)(2), (3), (4), and (5) and (d)(2) shall determine the reduction of HAP emissions, as VOC, for all combustion or recovery devices other than flares. Sources subject to RACT standards under § 63.562(c)(3), (4), and (5) and (d)(2) shall determine the reduction of VOC emissions for all combustion or recovery devices other than flares.

(2) *Performance test exemptions.* An initial performance test required in this section and in § 63.565(d) and the continuous monitoring in § 63.564(e) is not required in the following cases:

(i) When a boiler or process heater with a design heat input capacity of 44 Megawatts or less is used to comply with § 63.562(b)(2), (3), or (4), (c)(3) or (4), or (d)(2) and the vent stream is used as the primary fuel or with the primary fuel;

(ii) When a boiler or process heater with a design heat input capacity of 44 Megawatts or greater is used to comply with § 63.562(b)(2), (3) or (4), (c)(3) or (4), or (d)(2); or

(iii) When a boiler subject to 40 CFR part 266, subpart H, ''Hazardous Waste Burned in Industrial Furnaces,'' that has demonstrated 99.99 percent destruction or recovery efficiency is used to comply with § 63.562(b)(2), (3), or (4), (c)(3) or (4), or (d)(2).

(3) *Operation and maintenance inspections.* If the 3-hour or 3-cycle block average operating parameters in paragraphs (b)(4) through (9) of this section, outside the acceptable operating ranges, are measured and recorded, i.e., variances of the pollution control device or monitoring equipment, the owner or operator of the affected source shall perform an unscheduled inspection of the control device and monitoring equipment and review of the parameter monitoring data. The owner or operator of the affected source shall perform an inspection and review when total parameter variance time for the control device is greater than 10 percent of the operating time for marine tank vessel loading operations on a 30-day, rolling-average basis. The inspection and review shall be conducted within 24 hours after passing the allowable variance time of 10 percent. The inspection checklist from the requirements of § 63.562(e)(2)(iii) and the monitoring data from requirements in §§ 63.562(e)(2)(ii) and 63.564 should be used to identify any maintenance problems that may be associated with the variance. The unscheduled inspection should encompass all components of the control device and monitoring equipment that can be inspected while in operation. If any maintenance problem is identified during the inspection, the owner or operator of the affected source must take corrective action (e.g., adjustments to operating controls, etc.) as soon as practicable. If no immediate maintenance problems are identified from the inspection performed while the equipment is operating, a complete inspection in accordance with § 63.562(e)(2) must be conducted prior to the next marine tank vessel loading operation and corrective action (e.g., replacement of defective parts) must be taken as soon as practicable for any maintenance problem identified during the complete inspection.

(4) *Combustion device, except flare.* During the initial performance test required in paragraph (b)(1) of this section, the owner or operator shall determine the efficiency of and/or the outlet VOC concentration from the combustion device used to comply with § 63.562(b)(2), (3), and (4), (c)(3) and (4), and (d)(2) using the test methods in § 63.565(d). The owner or operator shall comply with paragraph (b)(4)(i) or (ii) of this section.

(i) *Outlet VOC concentration limit for required percent combustion efficiency.* The owner or operator shall establish as an operating parameter the baseline VOC concentration using the procedures described in § 63.565(g). Following the date on which the initial performance test is completed, the facility shall be operated with a block average outlet VOC concentration as determined in § 63.564(e)(1) no more than 20 percent above the baseline VOC concentration.

(ii) *Baseline temperature for required percent combustion efficiency.* The owner or operator shall establish as an operating parameter the baseline temperature using the procedures described in § 63.565(f). Following the date on which the initial performance test is completed, the facility shall be operated with the block average temperature as determined in § 63.564(e)(2) or (3) no more than 28°C (50°F) below the baseline temperature.

(5) *Flare.* During the initial performance test required in paragraph (b)(1) of this section, the owner or operator shall establish that the flare used to comply with the emissions standards in § 63.562(b)(2), (3), and (4), (c)(3) and (4), and (d)(2) is in compliance with the design requirements for flares cited in § 63.565(e). Following the date on which the initial determination of compliance is established, the facility shall operate with the presence of a pilot flame in the flare, as determined in § 63.564(f).

(6) *Carbon adsorber.* During the initial performance test required in paragraph (b)(1) of this section, the owner or operator shall determine the efficiency of and/or the outlet VOC concentration from the recovery device used to comply with § 63.562(b)(2), (3), (4), and (5), (c)(3), (4), and (5), and (d)(2) using the test methods in § 63.565(d). The owner or operator shall comply with paragraph (b)(6)(i) as well as either paragraph (b)(6)(ii) or (iii) of this section. The owner or operator of affected sources complying with paragraph (b)(6)(ii)(B) or (C) of this section shall conduct a performance test once each year.

(i) *Compliance determination for carbon bed regeneration.* Desorbed hydrocarbons from regeneration of the off-line carbon bed shall be vented to the on-line carbon bed.

(ii) *Baseline parameters for required percent recovery efficiency.* The owner or operator shall comply with paragraph (b)(6)(ii)(A), (B), or (C) of this section.

(A) *Outlet VOC concentration limit for required percent recovery efficiency.* The owner or operator shall establish as an operating parameter the baseline VOC concentration using the procedures described in § 63.565(g). Following the date on which the initial performance test is completed, the facility shall be operated with a block average outlet VOC concentration as determined in § 63.564(g)(1) no more than 20 percent above the baseline VOC concentration.

(B) *Carbon adsorbers with vacuum regeneration.* The owner or operator shall establish as operating parameters the baseline regeneration time for the vacuum stage of carbon bed regeneration using the procedures described in § 63.565(h) and shall establish the baseline vacuum pressure (negative gauge pressure) using the procedures described in § 63.565(i). Following the date on which the initial performance test is completed, the facility shall be operated with block average regeneration time of the vacuum

stage of carbon bed regeneration as determined in § 63.564(g)(2) no more than 20 percent below the baseline regeneration time, and the facility shall be operated with the block average vacuum pressure (negative gauge pressure) as determined in § 63.564(g)(2) no more than 20 percent above the baseline vacuum pressure.

(C) *Carbon adsorbers with steam regeneration.* The owner or operator shall establish as operating parameters the baseline total stream flow using the procedures described in § 63.565(j) and a baseline carbon bed temperature after cooling of the bed using the procedures in § 63.565(f)(2). Following the date on which the initial performance test is completed, the facility shall be operated with the total stream flow, as determined in § 63.564(g)(3), no more than 20 percent below the baseline stream flow and with the carbon bed temperature (measured within 15 minutes after completion of the cooling cycle), as determined in § 63.564(g)(3), no more than 10 percent or 5.6°C (10°F) above the baseline carbon bed temperature, whichever is less stringent.

(iii) *Outlet VOC concentration of 1,000 ppmv for gasoline loading.* Following the date on which the initial performance test is completed, the facility shall operate with a block average outlet VOC concentration as determined in § 63.564(g)(1) of no more than 1,200 ppmv VOC.

(7) *Condenser/refrigeration unit.* During the initial performance test required in paragraph (b)(1) of this section, the owner or operator shall determine the efficiency of and/or the outlet VOC concentration from the recovery device used to comply with § 63.562(b)(2), (3), and (4), (c)(3) and (4), and (d)(2) using the test methods in § 63.565(d). The owner or operator shall comply with either paragraph (b)(7)(i), (ii), or (iii) of this section.

(i) *VOC outlet concentration limit for required percent recovery efficiency.* The owner or operator shall establish as an operating parameter the baseline VOC concentration using the procedures described in § 63.565(g). Following the date on which the initial performance test is completed, the facility shall be operated with a block average outlet VOC concentration as determined in § 63.564(h)(2) no more than 20 percent above the baseline VOC concentration.

(ii) *Baseline temperature for required percent recovery efficiency.* The owner or operator shall establish as an operating parameter the baseline temperature using the procedures described in § 63.565(f). Following the date on which the initial performance test is completed, the facility shall operate with a block average temperature, as determined in § 63.564(h)(1), no more than 28°C (50°F) above the baseline temperature.

(iii) *Baseline parameters for 1,000 ppmv VOC concentration limit for gasoline loading.* The owner or operator shall monitor either the outlet VOC concentration or the outlet temperature of the unit. For sources monitoring temperature, the owner or operator shall establish as an operating parameter the baseline temperature using the procedures described in § 63.565(f). Following the date on which the initial performance test is completed, the facility shall operate with a block average outlet VOC concentration, as determined in § 63.564(h)(2), of no more than 1,200 ppmv VOC or with a block average temperature, as determined in § 63.564(h)(1), no more than 28°C (50°F) above the baseline temperature.

(8) *Absorber.* During the initial performance test required in paragraph (b)(1) of this section, the owner or operator shall determine the efficiency of the absorber and/or the outlet VOC concentration from the recovery device used to comply with § 63.562(b)(2), (3), and (4), (c)(3) and (4), and (d)(2) using the test methods in § 63.565(d). The owner or operator shall comply with either paragraph (b)(8)(i) or (ii) of this section.

(i) *VOC outlet concentration limit for required percent recovery efficiency.* The owner or operator shall establish as an operating parameter the baseline VOC concentration using the procedures described in § 63.565(g). Following the date on which the initial performance test is completed, the facility shall be operated with a block average outlet VOC concentration as determined in § 63.564(i)(1) no more than 20 percent above the baseline VOC concentration.

(ii) *Baseline liquid-to-vapor ratio for required percent recovery efficiency.* The owner or operator shall establish as an operating parameter the baseline liquid flow to vapor flow (L/V) ratio using the procedures described in § 63.565(k). Following the date on which the initial performance test is completed, the facility shall operate with a block average L/V ratio, as determined in § 63.564(i)(2), no more than 20 percent below the baseline L/V ratio.

(9) *Alternative control devices.* For sources complying with § 63.562(b)(2), (3), and (4), (c)(3) and (4), and (d)(2) with the use of a control technology other than the devices discussed in paragraphs (b)(4) through (8) of this section, the owner or operator of an affected source shall provide to the Administrator information describing the design and operation of the air pollution control system, including recommendations for the operating parameter(s) to be monitored to indicate proper operation and maintenance of the air pollution control system. Based on this information, the Administrator shall determine the operating parameter(s) to be established during the performance test. During the initial performance test required in paragraph (b)(1) of this section, the owner or operator shall determine the efficiency of the air pollution control system using the test methods in § 63.565(d). The device shall achieve at least the percent destruction efficiency or recovery efficiency required under § 63.562(b)(2), (3), and (4), (c)(3) and (4), and (d)(2). The owner or operator shall establish the operating parameter(s) approved by the Administrator. Following the date on which the initial performance test is complete, the facility shall operate either above or below a maximum or minimum operating parameter, as appropriate.

(10) *Emission estimation.* The owner or operator of a source subject to § 63.562(b)(2), (3), and (4) shall use the emission estimation procedures in § 63.565(l) to calculate HAP emissions.

(c) *Leak detection and repair for vapor collection systems and control devices.* The following procedures are required for all sources subject to § 63.562(b), (c), or (d).

(1) *Annual leak detection and repair for vapor collection systems and control devices.* The owner or operator of an affected source shall inspect and monitor all ductwork and piping and connections to vapor collection systems and control devices once each calendar year using Method 21.

(2) *Ongoing leak detection and repair for vapor collection systems and control devices.* If evidence of a potential leak is found by visual, audible, olfactory, or any other detection method, all ductwork and piping and connections to vapor collection systems and control devices shall be inspected to the extent necessary to positively identify the potential leak and any potential leaks shall be monitored within 5 days by Method 21. Each detection of a leak shall be recorded, and the leak shall be tagged until repaired.

(3) When a leak is detected, a first effort to repair the vapor collection system and control device shall be made within 15 days or prior to the next marine tank vessel loading operation, whichever is later.

§ 63.564 Monitoring requirements.

(a) (1) The owner or operator of an affected source shall comply with the

monitoring requirements in § 63.8 of subpart A of this part in accordance with the provisions for applicability of subpart A to this subpart in Table 1 of § 63.560 and the monitoring requirements in this section.

(2) Each owner or operator of an affected source shall monitor the parameters specified in this section. All monitoring equipment shall be installed such that representative measurements of emissions or process parameters from the source are obtained. For monitoring equipment purchased from a vendor, verification of the operational status of the monitoring equipment shall include completion of the manufacturer's written specifications or recommendations for installation, operation, and calibration of the system.

(3) Except for system breakdowns, out-of-control periods, repairs, maintenance periods, calibration checks, and zero (low-level) and high-level calibration drift adjustments, all continuous parametric monitoring systems (CPMS) and CEMS shall be in continuous operation while marine tank vessel loading operations are occuring and shall meet minimum frequency of operation requirements. Sources monitoring by use of CEMS and CPMS shall complete a minimum of one cycle of operation (sampling, analyzing, and/or data recording) for each successive 15-minute period.

(4) The owner or operator of a CMS installed in accordance with these emissions standards shall comply with the performance specifications either in performance specification (PS) 8 in 40 CFR part 60, appendix B for CEMS or in § 63.7(c)(6) of subpart A of this part for CPMS.

(5) A CEMS is out of control when the measured values (i.e., daily calibrations, multipoint calibrations, and performance audits) exceed the limits specified in either PS 8 or in § 63.8(c)(7) of subpart A of this part. The owner or operator of a CEMS that is out of control shall submit all information concerning out of control periods, including start and end dates and hours and descriptions of corrective actions taken, in the excess emissions and continuous monitoring system performance report required in § 63.567(e).

(b) *Vapor collection system of terminal.* Owners or operators of a source complying with § 63.563(a)(1) that uses a vapor collection system that contains valves that could divert a vent stream from a control device used to comply with the provisions of this subpart shall comply with paragraph (b)(1), (2), or (3) of this section.

(1) Measure and record the vent stream flowrate of each by-pass line once every 15 minutes. The owner or operator shall install, calibrate, maintain, and operate a flow indicator and data recorder. The flow indicator shall be installed immediately downstream of any valve (i.e., entrance to by-pass line) that could divert the vent stream from the control device to the atmosphere.

(2) Measure the vent stream flowrate of each by-pass line once every 15 minutes. The owner or operator shall install, calibrate, maintain, and operate a flow indicator with either an audio or visual alarm. The flow indicator and alarm shall be installed immediately downstream of any valve (i.e., entrance to by-pass line) that could divert the vent stream from the control device to the atmosphere. The alarm shall be checked every 6 months to demonstrate that it is functioning properly.

(3) Visually inspect the seal or closure mechanism once during each marine tank vessel loading operation and at least once every month to ensure that the valve is maintained in the closed position and that the vent stream is not diverted through the by-pass line; record all times when the car seals have been broken and the valve position has been changed. Each by-pass line valve shall be secured in the closed position with a car-seal or a lock-and-key type configuration.

(c) *Pressure/vacuum settings for the marine tank vessel's vapor collection equipment.* Owners or operators of a source complying with § 63.563(a)(3) shall measure continuously the operating pressure of the marine tank vessel during loading.

(d) *Loading at negative pressure.* Owners or operators of a source complying with § 63.563(a)(4)(iv) that load vessels at less than atmospheric pressure (i.e., negative gauge pressure) shall measure and record the loading pressure. The owner or operator shall install, calibrate, maintain, and operate a recording pressure measurement device (magnehelic gauge or equivalent device) and an audible and visible alarm system that is activated when the pressure vacuum specified in § 63.563(a)(4)(iv) is not attained. The owner or operator shall place the alarm system so that it can be seen and heard where cargo transfer is controlled. The owner or operator shall verify the accuracy of the pressure device once each calendar year with a reference pressure monitor (traceable to National Institute of Standards and Technology (NIST) standards or an independent pressure measurement device dedicated for this purpose).

(e) *Combustion device, except flare.* For sources complying with § 63.563(b)(4), use of a combustion device except a flare, the owner or operator shall comply with paragraph (e)(1), (2), or (3) of this section. Owners or operators complying with paragraphs (e)(2) or (3) shall also comply with paragraph (e)(4) of this section.

(1) *Outlet VOC concentration.* Monitor the VOC concentrations at the exhaust point of the combustion device and record the output from the system. For sources monitoring the outlet VOC concentration established during the performance test, a data acquisition system shall record a concentration every 15 minutes and shall compute and record an average concentration each cycle (same time period or cycle as the performance test) and a 3-cycle block average concentration every third cycle. For sources monitoring the 1,000 ppmv VOC concentration for gasoline loading, a data acquisition system shall record a concentration every 15 minutes and shall compute and record an average concentration each hour and a 3-hour block average concentration every third hour. The owner or operator will install, calibrate, operate, and maintain a CEMS consistent with the requirements of PS 8 to measure the VOC concentration. The daily calibration requirements are required only on days when marine tank vessel loading operations occur.

(2) *Operating temperature determined during performance testing.* If the baseline temperature was established during the performance test, the data acquisition system shall record the temperature every 15 minutes and shall compute and record an average temperature each cycle (same time period or cycle of the performance test) and a 3-cycle block average every third cycle.

(3) *Manufacturer's recommended operating temperature.* If the baseline temperature is based on the manufacturer recommended operating temperature, the data acquisition system shall record the temperature every 15 minutes and shall compute and record an average temperature each hour and a 3-hour block average every third hour.

(4) *Temperature monitor.* The owner or operator shall install, calibrate, operate, and maintain a temperature monitor accurate to within ±5.6°C (±10°F) or within 1 percent of the baseline temperature, whichever is less stringent, to measure the temperature. The monitor shall be installed at the exhaust point of the combustion device but not within the combustion zone. The owner or operator shall verify the accuracy of the temperature monitor once each calendar year with a reference temperature monitor (traceable to National Institute of Standards and

Technology (NIST) standards or an independent temperature measurement device dedicated for this purpose). During accuracy checking, the probe of the reference device shall be at the same location as that of the temperature monitor being tested.

(f) *Flare.* For sources complying with § 63.563(b)(5), use of a flare, the owner or operator shall monitor and record continuously the presence of the flare pilot flame. The owner or operator shall install, calibrate, maintain, and operate a heat sensing device (an ultraviolet beam sensor or thermocouple) at the pilot light to indicate the presence of a flame during the entire loading cycle.

(g) *Carbon adsorber.* For sources complying with § 63.563(b)(6), use of a carbon adsorber, the owner or operator shall comply with paragraph (g)(1), (2), or (3) of this section.

(1) *Outlet VOC concentration.* Monitor the VOC concentrations at the exhaust point of each carbon adsorber unit and record the output from the system. For sources monitoring the outlet VOC concentration established during the performance test, a data acquisition system shall record a concentration every 15 minutes and shall compute and record an average concentration each cycle (same time period or cycle as the performance test) and a 3-cycle block average concentration every third cycle. For sources monitoring the 1,000 ppmv VOC concentration for gasoline loading, a data acquisition system shall record a concentration every 15 minutes and shall compute and record an average concentration each hour and a 3-hour block average concentration every third hour. The owner or operator will install, calibrate, operate, and maintain a CEMS consistent with the requirements of PS 8 to measure the VOC concentration. The daily calibration requirements are required only on days when marine tank vessel loading operations occur.

(2) *Carbon adsorbers with vacuum regeneration.* Monitor and record the regeneration time for carbon bed regeneration and monitor and record continuously the vacuum pressure of the carbon bed regeneration cycle. The owner or operator will record the time when the carbon bed regeneration cycle begins and when the cycle ends for a single carbon bed and will calculate a 3-cycle block average every third cycle. The owner or operator shall install, calibrate, maintain, and operate a recording pressure measurement device (magnehelic gauge or equivalent device). A data acquisition system shall record and compute a 3-cycle (carbon bed regeneration cycle) block average vacuum pressure every third cycle. The owner or operator shall verify the accuracy of the pressure device once each calendar year with a reference pressure monitor (traceable to National Institute of Standards and Technology (NIST) standards or an independent pressure measurement device dedicated for this purpose). During accuracy checking, the probe of the reference device shall be at the same location as that of the pressure monitor being tested.

(3) *Carbon adsorbers with steam regeneration.* Monitor and record the total stream mass flow and monitor and record the carbon bed temperature after regeneration (but within 15 minutes of completion of the cooling cycle). The owner or operator will install, calibrate, maintain, and operate an integrating stream flow monitoring device that is accurate within ±10 percent and that is capable of recording the total stream mass flow for each regeneration cycle. The owner or operator will install, calibrate, maintain, and operate a temperature monitor accurate to within ±5.6°C (10°F) or within 1 percent of the baseline carbon bed temperature, whichever is less stringent, to measure the carbon bed temperature. The monitor shall be installed at the exhaust point of the carbon bed. The data acquisition system shall record the carbon bed temperature after each cooling cycle (measured within 15 minutes of completion of the cooling cycle). The owner or operator shall verify the accuracy of the temperature monitor once each calendar year with a reference temperature monitor (traceable to National Institute of Standards and Technology (NIST) standards or an independent temperature measurement device dedicated for this purpose). During accuracy checking, the probe of the reference device shall be at the same location as that of the temperature monitor being tested.

(h) *Condenser/refrigeration unit.* For sources complying with § 63.563(b)(7), use of a condenser/refrigeration unit, the owner or operator shall comply with either paragraph (h)(1) or (2) of this section.

(1) *Baseline temperature.* Monitor and record the temperature at the outlet of the unit. The owner or operator shall install, calibrate, operate, and maintain a temperature monitor accurate to within ±5.6°C (±10°F) or within 1 percent of the baseline temperature, whichever is less stringent, to measure the temperature. The monitor shall be installed at the exhaust point of the condenser/refrigeration unit. For sources monitoring the temperature established during the performance test, the data acquisition system shall record the temperature every 15 minutes and shall compute and record an average temperature each cycle (same time period or cycle of the performance test) and a 3-hour block average every third cycle. For sources monitoring the manufacturer recommended temperature, the data acquisition system shall record the temperature every 15 minutes and shall compute and record an average temperature each hour and a 3-hour block average every third hour. The owner or operator shall verify the accuracy of the temperature monitor once each calendar year with a reference temperature monitor (traceable to National Institute of Standards and Technology (NIST) standards or an independent temperature measurement device dedicated for this purpose). During accuracy checking, the probe of the reference device shall be at the same location as that of the temperature monitor being tested.

(2) *Outlet VOC concentration.* Monitor the VOC concentrations at the outlet of the unit and record the output from the system. For sources monitoring the outlet VOC concentration established during the performance test, a data acquisition system shall record a concentration every 15 minutes and shall compute and record an average concentration each cycle (same time period or cycle as the performance test) and a 3-cycle block average concentration every third cycle. For sources monitoring the 1,000 ppmv VOC concentration for gasoline loading, a data acquisition system shall record a concentration every 15 minutes and shall compute and record an average concentration each hour and a 3-hour block average concentration every third hour. The owner or operator will install, calibrate, operate, and maintain a VOC CEMS consistent with the requirements of PS 8 to measure the VOC concentration. The daily calibration requirements are required only on days when marine tank vessel loading operations occur.

(i) *Absorber.* For sources complying with § 63.563(b)(8), use of an absorber, the owner or operator shall comply with either paragraph (i)(1) or (2) of this section.

(1) *Outlet VOC concentration.* Monitor the VOC concentrations at the outlet of the absorber and record the output from the system. For sources monitoring the outlet VOC concentration established during the performance test, a data acquisition system shall record a concentration every 15 minutes and shall compute and record an average concentration each cycle (same time period or cycle as the

performance test) and a 3-cycle block average concentration every third cycle. For sources monitoring the 1,000 ppmv VOC concentration for gasoline loading, a data acquisition system shall record a concentration every 15 minutes and shall compute and record an average concentration each hour and a 3-hour block average concentration every third hour. The owner or operator will install, calibrate, operate, and maintain a VOC CEMS consistent with the requirements of PS 8. The daily calibration requirements are required only on days when marine tank vessel loading operations occur.

(2) *L/V ratio.* Monitor and record the inlet liquid flowrate and the inlet gas flowrate to the absorber and record the calculated L/V ratio. The owner or operator shall install, calibrate, maintain, and operate liquid and gas flow indicators. For sources monitoring the L/V ratio established during the performance test, a data acquisition system shall record the flowrates and calculated ratio every 15 minutes and shall compute and record an average ratio each cycle (same time period or cycle as the performance test) and a 3-cycle block average ratio every third cycle. For sources monitoring the manufacturer recommended L/V ratio, a data acquisition system shall record the flowrates and calculated ratio every 15 minutes and shall compute and record an average ratio each hour and a 3-hour average ratio every third hour. The liquid and gas flow indicators shall be installed immediately upstream of the respective inlet lines to the absorber.

(j) *Alternate monitoring procedures.* Alternate procedures to those described in this section may be used upon application to, and approval by, the Administrator. The owner or operator shall comply with the procedures for use of an alternative monitoring method in § 63.8(f).

§ 63.565 Test methods and procedures.

(a) *Performance testing.* The owner or operator of an affected source in § 63.562 shall comply with the performance testing requirements in § 63.7 of subpart A of this part in accordance with the provisions for applicability of subpart A to this subpart in Table 1 of § 63.560 and the performance testing requirements in this section.

(b) *Pressure/vacuum settings of marine tank vessel's vapor collection equipment.* For the purpose of determining compliance with § 63.563(a)(3), the following procedures shall be used:

(1) Calibrate and install a pressure measurement device (liquid manometer, magnehelic gauge, or equivalent instrument) capable of measuring up to the maximum relief set pressure of the pressure-vacuum vents;

(2) Connect the pressure measurement device to a pressure tap in the terminal's vapor collection system, located as close as possible to the connection with the marine tank vessel; and

(3) During the performance test required in § 63.563(b)(1), record the pressure every 5 minutes while a marine tank vessel is being loaded and record the highest instantaneous pressure and vacuum that occurs during each loading cycle.

(c) *Vapor-tightness test procedures for the marine tank vessel.* When testing a vessel for vapor tightness to comply with the marine vessel vapor-tightness requirements of § 63.563(a)(4)(i), the owner or operator of a source shall use the methods in either paragraph (c)(1) or (2) in this section.

(1) *Pressure test for the marine tank vessel.*

(i) Each product tank shall be pressurized with dry air or inert gas to no more than the pressure of the lowest pressure relief valve setting.

(ii) Once the pressure is obtained, the dry air or inert gas source shall be shut off.

(iii) At the end of one-half hour, the pressure in the product tank and piping shall be measured. The change in pressure shall be calculated using the following formula:

$$P = P_i - P_f$$

Where:

P=change in pressure, inches of water.

P_i=pressure in tank when air/gas source is shut off, inches of water.

P_f=pressure in tank at the end of one-half hour after air/gas source is shut off, inches of water.

(iv) The change in pressure, P, shall be compared to the pressure drop calculated using the following formula:

$$PM = 0.861\ P_{ia}\ L/V$$

Where:

PM=maximum allowable pressure change, inches of water.

P_{ia}=pressure in tank when air/gas source is shut off, psia.

L=maximum permitted loading rate of vessel, barrels per hour.

V=total volume of product tank, barrels.

(v) If P≤PM, the vessel is vapor tight.

(vi) If P>PM, the vessel is not vapor tight and the source of the leak must be identified and repaired prior to retesting.

(2) *Leak test for the marine tank vessel.* Each owner or operator of a source complying with §§ 63.563(a)(4)(ii) or (iii) shall use Method 21 as the vapor-tightness leak test for marine tank vessels. The test shall be conducted during the final 20 percent of loading of each product tank of the marine vessel, and it shall be applied to any potential sources of vapor leaks on the vessel.

(d) *Combustion (except flare) and recovery control device performance test procedures.*

(1) All testing equipment shall be prepared and installed as specified in the appropriate test methods.

(2) All testing shall be performed during the last 20 percent of loading of a tank or compartment.

(3) All emission testing intervals shall consist of each 5 minute period during the performance test. For each interval, the following shall be performed:

(i) *Readings.* The reading from each measurement instrument shall be recorded.

(ii) *Sampling Sites.* Method 1 or 1A of appendix A of part 60 of this chapter, as appropriate, shall be used for selection of sampling sites. Sampling sites shall be located at the inlet and outlet of the combustion device or recovery device except for owners or operators complying with the 1,000 ppmv VOC emissions limit for gasoline vapors under § 63.563(b)(6) or (7), where the sampling site shall be located at the outlet of the recovery device.

(iii) *Volume exhausted.* The volume exhausted shall be determined using Method 2, 2A, 2C, or 2D of appendix A of part 60 of this chapter, as appropriate.

(4) *Combustion devices, except flares.* The average VOC concentration in the vent upstream and downstream of the control device shall be determined using Method 25 of appendix A of part 60 of this chapter for combustion devices, except flares. The average VOC concentration shall correspond to the volume measurement by taking into account the sampling system response time.

(5) *Recovery devices.* The average VOC concentration in the vent upstream and downstream of the control device shall be determined using Method 25A of appendix A of part 60 of this chapter for recovery devices. The average VOC concentration shall correspond to the volume measurement by taking into account the sampling system response time.

(6) The VOC mass at the inlet and outlet of the combustion or recovery device during each testing interval shall be calculated as follows:

$$M_j = FKV_sC_{VOC}$$

Where:

M_j=mass of VOC at the inlet and outlet of the combustion or recovery

device during testing interval j, kilograms (kg).

$F=10^{-6}$=conversion factor, (cubic meters VOC/cubic meters air)(1/ppmv) (m^3 VOC/m^3 air)(1/ppmv).

K=density, kilograms per cubic meter (kg/m^3 VOC), standard conditions, 20 °C and 760 mm Hg.

V_s=volume of air-vapor mixture at the inlet and outlet of the combustion or recovery device, cubic meters (m^3) at standard conditions, 20 °C and 760 mm Hg.

C_{VOC}=VOC concentration (as measured) at the inlet and outlet of the combustion or recovery device, ppmv, dry basis.

s=standard conditions, 20 °C and 760 mm Hg.

(7) The VOC mass emission rates at the inlet and outlet of the recovery or combustion device shall be calculated as follows:

$$E_i = \frac{\sum_{j=1}^{n} M_{ij}}{T}$$

$$E_o = \frac{\sum_{j=1}^{n} M_{oj}}{T}$$

Where:

E_i, E_o=mass flow rate of VOC at the inlet (i) and outlet (o) of the recovery or combustion device, kilogram per hour (kg/hr).

M_{ij}, M_{oj}=mass of VOC at the inlet (i) or outlet (o) during testing interval j, kg.

T=Total time of all testing intervals, hour.

n=number of testing intervals.

(8) Where Method 25 or 25A is used to measure the percent reduction in VOC, the percent reduction across the combustion or recovery device shall be calculated as follows:

$$R = \frac{E_i - E_o}{E_i}(100\%)$$

Where:

R=control efficiency of control device, percent.

E_i=mass flow rate of VOC at the inlet to the combustion or recovery device as calculated under paragraph (c)(7) of this section, kg/hr.

E_o=mass flow rate of VOC at the outlet of the combustion or recovery device, as calculated under paragraph (c)(7) of this section, kg/hr.

(9) Repeat the procedures in paragraph (d)(1) through (d)(8) of this section 3 times. The arithmetic average percent efficiency of the three runs shall determine the overall efficiency of the control device.

(10) Use of methods other than Method 25 or Method 25A shall be validated pursuant to Method 301 of appendix A of part 63 of this chapter.

(e) *Performance test for flares.* When a flare is used to comply with § 63.562(b)(2), (3), and (4), (c)(3) and (4), and (d)(2), the source must demonstrate that the flare meets the requirements of § 63.11 of subpart A of this part. In addition, a performance test according to Method 22 of appendix A of part 63 shall be performed to determine visible emissions. The observation period shall be at least 2 hours and shall be conducted according to Method 22. Performance testing shall be conducted during three complete loading cycles with a separate test run for each loading cycle. The observation period for detecting visible emissions shall encompass each loading cycle. Integrated sampling to measure process vent stream flow rate shall be performed continuously during each loading cycle. The owner or operator shall record all visible emission readings, heat content determinations, flow rate measurements, maximum permitted velocity calculations, and exit velocity determinations made during the performance test.

(f) *Baseline temperature.* The procedures in this paragraph shall be used to determine the baseline temperature required in § 63.563(b)(4), (6), and (7) for combustion devices, carbon adsorber beds, and condenser/refrigeration units, respectively, and to monitor the temperature as required in § 63.564(e), (g), and (h). The owner or operator shall comply with either paragraph (f)(1) or (2) of this section.

(1) *Baseline temperature from performance testing.* The owner or operator shall establish the baseline temperature as the temperature at the outlet point of the unit averaged over three test runs from paragraph (d) of this section. Temperature shall be measured every 15 minutes.

(2) *Baseline temperature from manufacturer.* The owner or operator shall establish the baseline temperature as the manufacturer recommended minimum operating temperature for combustion devices, maximum operating temperature for condenser units, and maximum operating temperature for carbon beds of carbon adsorbers.

(g) *Baseline outlet VOC concentration.* The procedures in this paragraph shall be used to determine the outlet VOC concentration required in § 63.563(b)(4), (6), (7), and (8) for combustion devices except flare, carbon adsorbers, condenser/refrigeration units, and absorbers, respectively, and to monitor the VOC concentration as required in § 63.564(e), (g), (h), and (i). The owner or operator shall use the procedures outlined in Method 25A. For the baseline VOC concentration, the arithmetic average of the outlet VOC concentration from three test runs from paragraph (d) of this section shall be calculated for the control device. The VOC concentration shall be measured at least every 15 minutes. Compliance testing of VOC CEMS shall be performed using PS 8.

(h) *Baseline regeneration time for carbon bed regeneration.* The procedures in this paragraph shall be used to demonstrate the baseline regeneration time for the vacuum stage of carbon bed regeneration required in § 63.563(b)(6) for a carbon adsorber and to monitor the regeneration time for the vacuum regeneration as required in § 63.564(g). The owner or operator shall comply with paragraph (h)(1) or (2).

(1) *Baseline regeneration time from performance testing.* The owner or operator shall establish the baseline regeneration time as the length of time for the vacuum stage of carbon bed regeneration averaged over three test runs from paragraph (d) of this section.

(2) *Baseline regeneration time from manufacturer recommendation.* The owner or operator shall establish the baseline regeneration time as the manufacturer recommended minimum regeneration time for the vacuum stage of carbon bed regeneration.

(i) *Baseline vacuum pressure for carbon bed regeneration.* The procedures in this paragraph shall be used to demonstrate the baseline vacuum pressure for the vacuum stage of carbon bed regeneration required in § 63.563(b)(6) for a carbon adsorber and to monitor the vacuum pressure as required in § 63.564(g). The owner or operator shall establish the baseline vacuum pressure as the manufacturer recommended minimum vacuum for carbon bed regeneration.

(j) *Baseline total stream flow.* The procedures in this paragraph shall be used to demonstrate the baseline total stream flow for steam regeneration required in § 63.563(b)(6) for a carbon adsorber and to monitor the total stream flow as required in § 63.564(g). The owner or operator shall establish the baseline stream flow as the manufacturer recommended minimum total stream flow for carbon bed regeneration.

(k) *Baseline L/V ratio.* The procedures in this paragraph shall be used to

determine the baseline L/V ratio required in § 63.563(b)(8) for an absorber and to monitor the L/V ratio as required in § 63.564(i). The owner or operator shall comply with either paragraph (k)(1) or (2) of this section.

(1) *Baseline L/V ratio from performance test.* The owner or operator shall establish the baseline L/V ratio as the calculated value of the inlet liquid flow divided by the inlet gas flow to the absorber averaged over three test runs using the procedures in paragraph (d) of this section.

(2) *Baseline L/V ratio from manufacturer.* The owner or operator shall establish the baseline L/V ratio as the manufacturer recommended minimum L/V ratio for absorber operation.

(l) *Emission estimation procedures.* For sources with emissions less than 10 or 25 tons and sources with emissions of 10 or 25 tons, the owner or operator shall calculate an annual estimate of HAP emissions, excluding commodities exempted by § 63.560(d), from marine tank vessel loading operations. Emission estimates and emission factors shall be based on test data, or if test data is not available, shall be based on measurement or estimating techniques generally accepted in industry practice for operating conditions at the source.

(m) *Alternate test procedures.*

(1) Alternate test procedures to those described in this section may be used upon application to, and approval by, the Administrator.

(2) If the owner or operator intends to demonstrate compliance by using an alternative to any test method specified, the owner or operator shall refrain from conducting the performance test until the Administrator approves the use of the alternative method when the Administrator approves the site-specific test plan (if review of the site-specific test plan is requested) or until after the alternative method is approved (see § 63.7(f) of subpart A of this part). If the Administrator does not approve the site-specific test plan (if review is requested) or the use of the alternative method within 30 days before the test is scheduled to begin, the performance test dates specified in § 63.563(b)(1) shall be extended such that the owner or operator shall conduct the performance test within 60 calendar days after the Administrator approves the site-specific test plan or after use of the alternative method is approved. Notwithstanding the requirements in the preceding two sentences, the owner or operator may proceed to conduct the performance test as required in this section (without the Administrator's prior approval of the site-specific test plan) if he/she subsequently chooses to use the specified testing and monitoring methods instead of an alternative.

§ 63.566 Construction and reconstruction.

(a) The owner or operator of an affected source shall fulfill all requirements for construction or reconstruction of a source in § 63.5 of subpart A of this part in accordance with the provisions for applicability of subpart A to this subpart in Table 1 of § 63.560 and construction or reconstruction requirements in this section.

(b) (1) *Application for approval of construction or reconstruction.* The provisions of this paragraph and § 63.5(d)(1)(ii) and (iii), (2), (3), and (4) of subpart A implement section 112(i)(1) of the Act.

(2) *General application requirements.* An owner or operator who is subject to the requirements of § 63.5(b)(3) of subpart A shall submit to the Administrator an application for approval of the construction of a new source, the reconstruction of a source, or the reconstruction of a source not subject to the emissions standards in § 63.562 such that the source becomes an affected source. The application shall be submitted as soon as practicable before the construction or reconstruction is planned to commence. The application for approval of construction or reconstruction may be used to fulfill the initial notification requirements of § 63.567(b)(3). The owner or operator may submit the application for approval well in advance of the date construction or reconstruction is planned to commence in order to ensure a timely review by the Administrator and that the planned commencement date will not be delayed.

(c) *Approval of construction or reconstruction based on prior State preconstruction review.* The owner or operator shall submit to the Administrator the request for approval of construction or reconstruction under this paragraph and § 63.5(f)(1) of subpart A of this part no later than the application deadline specified in paragraph (b)(2) of this section. The owner or operator shall include in the request information sufficient for the Administrator's determination. The Administrator will evaluate the owner or operator's request in accordance with the procedures specified in § 63.5(e) of subpart A of this part. The Administrator may request additional relevant information after the submittal of a request for approval of construction or reconstruction.

§ 63.567 Recordkeeping and reporting requirements.

(a) The owner or operator of an affected source shall fulfill all reporting and recordkeeping requirements in §§ 63.9 and 63.10 of subpart A of this part in accordance with the provisions for applicability of subpart A to this subpart in Table 1 of § 63.560 and fulfill all reporting and recordkeeping requirements in this section. These reports will be made to the Administrator at the appropriate address identified in § 63.13 of subpart A of this part.

(1) Reports required by subpart A and this section may be sent by U.S. mail, facsimile (fax), or by another courier.

(i) Submittals sent by U.S. mail shall be postmarked on or before the specified date.

(ii) Submittals sent by other methods shall be received by the Administrator on or before the specified date.

(2) If acceptable to both the Administrator and the owner or operator of a source, reports may be submitted on electronic media.

(b) *Notification requirements.* The owner or operator of an affected source shall fulfill all notification requirements in § 63.9 of subpart A of this part in accordance with the provisions for applicability of that section to this subpart in Table 1 of § 63.560 and the notification requirements in this paragraph.

(1) *Applicability.* If a source that otherwise would not be subject to the emissions standards subsequently increases its HAP emissions calculated on a 24-month annual average basis after September 19, 1997 or increases its annual HAP emissions after September 20, 1999 or subsequently increases its gasoline or crude loading throughput calculated on a 24-month annual average basis after September 19, 1996 or increases its gasoline or crude loading annual throughput after September 21, 1998 such that the source becomes subject to the emissions standards, such source shall be subject to the notification requirements of § 63.9 of subpart A of this part and the notification requirements of this paragraph.

(2) *Initial notification for sources with startup before the effective date.* The owner or operator of a source with initial startup before the effective date shall notify the Administrator in writing that the source is subject to the relevant standard. The notification shall be submitted not later than 365 days after the effective date of the emissions standards and shall provide the following information:

(i) The name and address of the owner or operator;

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

(iii) An identification of this emissions standard that is the basis of the notification and the source's compliance date;

(iv) A brief description of the nature, size, design, and method of operation of the source;

(v) A statement that the source is a major source.

(3) *Initial notification for sources with startup after the effective date.* The owner or operator of a new or reconstructed source or a source that has been reconstructed such that it is subject to the emissions standards that has an initial startup after the effective date but before the compliance date, and for which an application for approval of construction or reconstruction is not required under § 63.5(d) of subpart A of this part and § 63.566 of this subpart, shall notify the Administrator in writing that the source is subject to the standard no later than 365 days or 120 days after initial startup, whichever occurs before notification of the initial performance test in § 63.9(e) of subpart A of this part. The notification shall provide all the information required in paragraph (b)(2) of this section, delivered or postmarked with the notification required in paragraph (b)(4) of this section.

(4) *Initial notification requirements for constructed/reconstructed sources.* After the effective date of these standards, whether or not an approved permit program is effective in the State in which a source subject to these standards is (or would be) located, an owner or operator subject to the notification requirements of § 63.5 of subpart A of this part and § 63.566 of this subpart who intends to construct a new source subject to these standards, reconstruct a source subject to these standards, or reconstruct a source such that it becomes subject to these standards, shall comply with paragraphs (b)(4)(i), (ii), (iii), and (iv) of this section.

(i) *Notify the Administrator in writing of the intended construction or reconstruction.* The notification shall be submitted as soon as practicable before the construction or reconstruction is planned to commence. The notification shall include all the information required for an application for approval of construction or reconstruction as specified in § 63.5 of subpart A of this part. The application for approval of construction or reconstruction may be used to fulfill the requirements of this paragraph.

(ii) Submit a notification of the date when construction or reconstruction was commenced, delivered or postmarked not later than 30 days after such date, if construction was commenced after the effective date.

(iii) Submit a notification of the anticipated date of startup of the source, delivered or postmarked not more than 60 days nor less than 30 days before such date;

(iv) Submit a notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

(5) *Additional initial notification requirements.* The owner or operator of sources subject to § 63.562(b)(2), (3), and (4), MACT standards, shall also include in the initial notification report required by paragraph (b)(2) and (3) the 24-month annual average or the annual actual HAP emissions from marine tank vessel loading operations, as appropriate, at all loading berths, as calculated according to the procedures in § 63.565(l). Emissions will be reported by commodity and type of marine tank vessel (barge or tanker) loaded.

(ii) As an alternative to reporting the information in paragraph (b)(5)(i) of this section, the source may submit documentation showing that all HAP-containing marine tank vessel loading operations, not exempt by § 63.560(d), occurred using vapor tight vessels that comply with the procedures of § 63.563(a) and that the emissions were routed to control devices meeting the requirements specified in § 63.563(b).

(c) *Request for extension of compliance.* If the owner or operator has installed BACT or technology to meet LAER consistent with § 63.6(i)(5) of subpart A of this part, he/she may submit to the Administrator (or State with an approved permit program) a request for an extension of compliance as specified in § 63.6(i)(4)(i)(B), (i)(5), and (i)(6) of subpart A of this part.

(d) *Reporting for performance testing of flares.* The owner or operator of a source required to conduct an opacity performance test shall report the opacity results and other information required by § 63.565(e) and § 63.11 of subpart A of this part with the notification of compliance status.

(e) *Summary reports and excess emissions and monitoring system performance reports.*

(1) *Schedule for summary report and excess emissions and monitoring system performance reports.* Excess emissions and parameter monitoring exceedances are defined in § 63.563(b). The owner or operator of a source subject to these emissions standards that is required to install a CMS shall submit an excess emissions and continuous monitoring system performance report and/or a summary report to the Administrator once each year, except, when the source experiences excess emissions, the source shall comply with a semi-annual reporting format until a request to reduce reporting frequency under paragraph (e)(2) of this section is approved.

(2) *Request to reduce frequency of excess emissions and continuous monitoring system performance reports.* An owner or operator who is required to submit excess emissions and continuous monitoring system performance and summary reports on a semi-annual basis may reduce the frequency of reporting to annual if the following conditions are met:

(i) For 1 full year the sources's excess emissions and continuous monitoring system performance reports continually demonstrate that the source is in compliance; and

(ii) The owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this subpart and subpart A of this part.

(3) The frequency of reporting of excess emissions and continuous monitoring system performance and summary reports required may be reduced only after the owner or operator notifies the Administrator in writing of his or her intention to make such a change and the Administrator does not object to the intended change. In deciding whether to approve a reduced frequency of reporting, the Administrator may review information concerning the source's entire previous performance history during the 5-year recordkeeping prior to the intended change, including performance test results, monitoring data, and evaluations of an owner or operator's conformance with operation maintenance requirements. Such information may be used by the Administrator to make a judgement about the source's potential for noncompliance in the future. If the Administrator will notify the owner or operator in writing within 45 days after receiving notice of the owner or operator's intention. The notification from the Administrator to the owner or operator will specify the grounds on which the disapproval is based. In the absence of a notice of disapproval within 45 days, approval is automatically granted.

(4) *Content and submittal dates for excess emissions and monitoring system performance reports.* All excess emissions and monitoring system performance reports and all summary reports, if required per paragraph (e)(5) and (6) of this section, shall be delivered or postmarked within 30 days following

the end of each calendar year, or within 30 days following the end of each six month period, if appropriate. Written reports of excess emissions or exceedances of process or control system parameters shall include all information required in § 63.10(c)(5) through (13) of subpart A of this part as applicable in Table 1 of § 63.560 and information from any calibration tests in which the monitoring equipment is not in compliance with PS 8 or other methods used for accuracy testing of temperature, pressure, or flow monitoring devices. The written report shall also include the name, title, and signature of the responsible official who is certifying the accuracy of the report. When no excess emissions or exceedances have occurred or monitoring equipment has not been inoperative, repaired, or adjusted, such information shall be stated in the report. This information will be kept for a minimum of 5 years and made readily available to the Administrator or delegated State authority upon request.

(5) If the total duration of excess emissions or control system parameter exceedances for the reporting period is less than 5 percent of the total operating time for the reporting period, and CMS downtime for the reporting period is less than 10 percent of the total operating time for the reporting period, only the summary report of § 63.10(e)(3)(vi) of subpart A of this part shall be submitted, and the full excess emissions and continuous monitoring system performance report of paragraph (e)(4) of this section need not be submitted unless required by the Administrator.

(6) If the total duration of excess emissions or process or control system parameter exceedances for the reporting period is 5 percent or greater of the total operating time for the reporting period, or the total CMS downtime for the reporting period is 10 percent or greater of the total operating time for the reporting period, both the summary report of § 63.10(e)(3)(vi) of subpart A of this part and the excess emissions and continuous monitoring system performance report of paragraph (e)(4) of this section shall be submitted.

(f) *Vapor collection system of the terminal.* Each owner or operator of an affected source shall submit with the initial performance test and maintain in an accessible location on site an engineering report describing in detail the vent system, or vapor collection system, used to vent each vent stream to a control device. This report shall include all valves and vent pipes that could vent the stream to the atmosphere, thereby bypassing the control device, and identify which valves are car-sealed opened and which valves are car-sealed closed.

(g) If a vent system, or vapor collection system, containing valves that could divert the emission stream away from the control device is used, each owner or operator of an affected source shall keep for at least 5 years up-to-date, readily accessible continuous records of:

(1) All periods when flow bypassing the control device is indicated if flow indicators are installed under § 63.563(a)(1) and § 63.564(b), and

(2) All times when maintenance is performed on car-sealed valves, when the car-seal is broken, and when the valve position is changed (i.e., from open to closed for valves in the vent piping to the control device and from closed to open for valves that vent the stream directly or indirectly to the atmosphere bypassing the control device) if valves are monitored under § 63.564(b).

(h) The owner or operator of an affected source shall keep the vapor-tightness documentation required under § 63.563(a)(4) on file at the source in a permanent form available for inspection.

(i) *Vapor tightness test documentation for marine tank vessels.* The owner or operator of an affected source shall maintain a documentation file for each marine tank vessel loaded at that source to reflect current test results as determined by the appropriate method in § 63.565(c)(1) and (2). Updates to this documentation file shall be made at least once per year. The owner or operator shall include, as a minimum, the following information in this documentation:

(1) Test title;

(2) Marine vessel owner and address;

(3) Marine vessel identification number;

(4) Loading time, according to § 63.563(a)(4)(ii) or (iii), if appropriate;

(5) Testing location;

(6) Date of test;

(7) Tester name and signature;

(8) Test results from § 63.565(c)(1) or (2), as appropriate;

(9) Documentation provided under § 63.563(a)(4)(ii) and (iii)(B) showing that the repair of leaking components attributed to a failure of a vapor-tightness test is technically infeasible without dry-docking the vessel; and

(10) Documentation that a marine tank vessel failing a pressure test or leak test has been repaired.

(j) *Emission estimation reporting and recordkeeping procedures.* The owner or operator of each source complying with the emission limits specified in § 63.562(b)(2), (3), and (4) shall comply with the following provisions:

(1) Maintain records of all measurements, calculations, and other documentation used to identify commodities exempted under § 63.560(d);

(2) Keep readily accessible records of the emission estimation calculations performed in § 63.565(l) for 5 years; and

(3) Submit an annual report of the source's HAP control efficiency calculated using the procedures specified in § 63.565(l), based on the source's actual throughput.

(4) Owners or operators of marine tank vessel loading operations specified in § 63.560(a)(3) shall retain records of the emissions estimates determined in § 65.565(l) and records of their actual throughputs by commodity, for 5 years.

(k) *Leak detection and repair of vapor collection systems and control devices.* When each leak of the vapor collection system, or vapor collection system, and control device is detected and repaired as specified in § 63.563(c) the following information required shall be maintained for 5 years:

(1) Date of inspection;

(2) Findings (location, nature, and severity of each leak);

(3) Leak determination method;

(4) Corrective action (date each leak repaired, reasons for repair interval); and

(5) Inspector name and signature.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 411

[BPD–841–FC]

RIN 0938–AH21

Medicare Program; Criteria and Procedures for Extending Coverage to Certain Devices and Related Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule establishes in regulations that certain devices with an investigational device exemption (IDE) approved by the Food and Drug Administration (FDA) and certain services related to those devices may be covered under Medicare. Specifically, it sets forth the process by which the FDA will assist HCFA in identifying non-experimental investigational devices that are potentially covered under Medicare.