ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0753; FRL–10006–68–OAR]

RIN 2060–AT01

National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Engine Test Cells/Stands source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action on amendments to the Engine Test Cells/Stands NESHAP addressing periods of startup, shutdown, and malfunction (SSM). These final amendments also include provisions regarding electronic reporting, as well as clarifying and technical corrections. These final amendments will result in improved compliance and implementation of the rule.

DATES: This final rule is effective on June 3, 2020. The incorporation by reference (IBR) of certain publications listed in the rule was approved by the Director of the Federal Register as of May 27, 2003.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0753. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Christopher Werner, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5133; fax number: (919) 541–4991; and email address: *werner.christopher@epa.gov.* For specific information regarding the risk modeling methodology, contact Ted Palma, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5470; fax number: (919) 541–0840; and email address: *palma.ted@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Sara Ayres, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, U.S. EPA Region 5 (Mail Code R–19J), 77 West Jackson Boulevard, Chicago, Illinois 60604; telephone number: (312) 353–6266; and email address: *ayres.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AAP American Academy of Pediatrics
AEGL acute exposure guideline level
APA Administrative Procedure Act
ATSDR Agency for Toxic Substances and Disease Registry
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CDC Centers for Disease Control and Prevention
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CHIEF Clearinghouse for Inventories and Emissions Factors
CHPAC Children's Health Protection Advisory Committee
CO carbon monoxide
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guideline
ERT Electronic Reporting Tool
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HEM–3 Human Exposure Model, Version 1.1.0
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
IARC International Agency for Research on Cancer
IRIS Integrated Risk Information System
km kilometer
MACT maximum achievable control technology
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
OAQPS Office of Air Quality Planning and Standards
OHEA Office of Health and Environmental Assessment
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
POM polycyclic organic matter
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
THC total hydrocarbons
TOSHI target organ-specific hazard index
tpy tons per year
$\mu g/m^3$ microgram per cubic meter
UMRA Unfunded Mandates Reform Act
VOC volatile organic compounds

Background information. On May 8, 2019, the EPA proposed revisions to the Engine Test Cells/Stands NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant public comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0753). A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

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

I. General Information

A. Does this action apply to me?

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

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

Source category	NESHAP	NAICS [1] code
Engine Test Facilities	Engine Test Cells/Stands ...	333120, 333618, 333111, 334312, 336111, 336120, 336112, 336992, 336312, 336350, 54171, 541380, 333611, 336411, 336412, 336414, 92711.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/engine-test-cellsstands-national-emission-standards-hazardous-air.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by August 3, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

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

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the

first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 20208, May 8, 2019.

B. What is the Engine Test Cells/Stands source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Engine Test Cells/Stands NESHAP on May 27, 2003 (68 FR 28774). The standards are codified at 40 CFR part 63, subpart PPPPP. The engine test facilities industry consists of facilities that utilize engine test cells/stands for testing of uninstalled stationary or uninstalled mobile engines. The source category covered by this MACT standard currently includes 59 facilities.

As promulgated in 2003, the Engine Test Cells/Stands NESHAP applies to engine test cells/stands located at major sources of HAP emissions. Because the NESHAP regulates the testing of uninstalled stationary or uninstalled mobile engines, it does not regulate the testing of any final product (*e.g.,* automobile, boat, or power generator). Engine test cells/stands are used for research and development activities (*e.g.,* new model development, endurance testing) and for quality control at engine production facilities. More information about this source category can be found in the proposal. See 84 FR 20211, May 8, 2019.

Engine test cells/stands emit HAP in the exhaust gases from combustion of gaseous and liquid fuels in the engines tested. The emission rates and annual emissions vary based on the size and design of the engines tested, the types of fuels burned, and the number, type, and duration of tests performed. Fuels used during testing include, but are not limited to, biofuels, natural gas, propane, gasoline, kerosene, jet fuel, diesel, and various grades of fuel oil.

The sources of emissions are the exhaust gases from combustion of fuels in the engines being tested in the test cells/stands. The primary HAP present in the exhaust gases from engine test cells/stands are formaldehyde, benzene, acetaldehyde, and 1,3-butadiene.

The Engine Test Cells/Stands NESHAP provides the owner or operator of a new or reconstructed affected source used in whole or in part for testing internal combustion engines with rated power of 25 horsepower or more and located at a major source of HAP emissions two compliance options: (1) Reduce carbon monoxide (CO) or total hydrocarbons (THC) emissions in the exhaust from the new or reconstructed affected source to 20 parts per million by volume dry basis or less, at 15-percent oxygen content, or (2) reduce CO or THC emissions in the exhaust from the new or reconstructed affected source by 96 percent or more. If a new or reconstructed affected source elects to comply with the percent reduction emission limitation, the affected source must conduct an initial performance test to determine the capture and control efficiencies of the equipment and to establish operating limits to be achieved on a continuous basis.

C. What changes did we propose for the Engine Test Cells/Stands source category in our May 8, 2019, proposal?

On May 8, 2019, the EPA published a proposed rule in the **Federal Register** for the Engine Test Cells/Stands NESHAP, 40 CFR part 63, subpart PPPPP, that took into consideration the RTR analyses. In the proposed rule, we proposed: No revisions to the numerical emissions limit based on the risk analysis and technology review; to amend provisions addressing periods of SSM; to amend provisions regarding electronic reporting; and to make certain clarifying and technical corrections.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Engine Test Cells/Stands source category. This action also finalizes

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

changes to the NESHAP for that source category, including changes to SSM provisions, changes to electronic reporting requirements, as well as clarifying and technical corrections. This action also reflects certain revisions to the May 2019 proposal in consideration of comments received during the public comment period described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Engine Test Cells/Stands source category?

This section introduces the final amendments to the Engine Test Cells/Stands NESHAP being promulgated pursuant to CAA section 112(f). As proposed, we are finalizing our finding that risks remaining after implementation of the existing MACT standards for this source category are acceptable. Similarly, as proposed, we are finalizing the determination that the current NESHAP provides an ample margin of safety to protect public health, and that a more stringent standard is not necessary to prevent an adverse environmental effect. Therefore, we are not finalizing any revisions to the numerical emission limits based on the analysis conducted under CAA section 112(f), and we are readopting the current standards.

B. What are the final rule amendments based on the technology review for the Engine Test Cells/Stands source category?

We determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing the proposed amendments to the Engine Test Cells/Stands NESHAP to remove or revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. As detailed in section IV.D.1 of the proposal preamble (84 FR 20208, May 8, 2019), the Engine Test Cells/Stands NESHAP requires that the standards apply at all times (see 40 CFR 63.9305(a)), consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008).

EPA is finalizing the SSM provisions as proposed without setting a separate standard for startup and shutdown as discussed in the proposal. See 84 FR 20226, May 8, 2019.

Further, the EPA is not finalizing standards for malfunctions. As discussed in the May 2019 proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. See 84 FR 20226 (May 8, 2019), for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given that administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

As is explained in more detail below, we are finalizing revisions to the General Provisions table to 40 CFR part 63, subpart PPPPP, to eliminate requirements that include rule language providing an exemption for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. Finally, we are finalizing our proposal to revise the recordkeeping and reporting requirements as they relate to malfunctions, as further described below. As discussed in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.9305(a) that the standards apply at all times. See 84 FR 20228–29, May 8, 2019.

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

Consistent with the proposal, the EPA is finalizing the electronic reporting requirements, specifically that owners and operators of engine test cells/stands submit electronic copies of required performance test reports, performance evaluation reports, and semiannual compliance reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI).

We are also finalizing additional changes to the NESHAP that address technical and editorial corrections, as proposed and as described in section IV.E of this preamble.

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

The revisions to the MACT standards being promulgated in this action are effective on June 3, 2020. The compliance date for existing engine test cells/stands is December 1, 2020. New sources, including those that commenced construction or reconstruction after May 8, 2019, must comply with all of the revisions to the standards immediately upon the effective date of this action, June 3, 2020, or upon startup, whichever is later.

For existing affected sources, we are finalizing two changes, as proposed, that would impact ongoing compliance requirements for 40 CFR part 63, subpart PPPPP. As discussed elsewhere in this preamble, we are finalizing the requirement that performance test results, performance evaluation reports, and the semiannual reports using the new template be submitted electronically. We are also finalizing a change to the requirements for SSM by removing the exemption from the requirements to meet the standard during SSM periods and by removing the requirement to develop and implement an SSM plan, as proposed. We have experience with similar industries that have been required to convert reporting mechanisms, install necessary hardware, install necessary software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters. This experience shows that a time period of a minimum of 90 days, and more typically 180 days, is generally necessary to successfully complete these changes. Our experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; adjust parameter monitoring and recording

systems to accommodate revisions; and update their operations to reflect the revised requirements. The EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable, and, thus, is finalizing the requirement that existing affected sources be in compliance with all of the revised requirements of this rule within 180 days of the rule's effective date.

IV. What is the rationale for our final decisions and amendments for the Engine Test Cells/Stands source category?

For each of the issues addressed in the proposed rule, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key public comments and responses. For all comments not discussed in this preamble, comment summaries, and the EPA's responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

A. Residual Risk Review for the Engine Test Cells/Stands Source Category

1. What did we propose pursuant to CAA section 112(f) for the Engine Test Cells/Stands source category?

Pursuant to CAA section 112(f), the EPA conducted a risk review and presented the results for the review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the May 2019 proposed rule for the Engine Test Cells/Stands source category (84 FR 20208, May 8, 2019). The results of the risk assessment are presented briefly in Table 2 of this preamble and in more detail in the residual risk document titled *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is in the docket for this action.

TABLE 2—ENGINE TEST CELLS/STANDS INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Population at increased risk of cancer ≥1-in-1 million		Annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [3]		Maximum screening acute noncancer HQ [4]
	Based on . . .		Based on . . .		Based on . . .		Based on . . .		Based on actual emissions level
	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	Actual emissions level	Allowable emissions level	
59	20	70	2,700	190,000	0.005	0.02	0.1	0.5	HQ_{REL} = 9 (acrolein) HQ_{AEGL-1} = 0.4

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum target organ-specific hazard index (TOSHI). The target organ system with the highest TOSHI for the source category is respiratory. The respiratory TOSHI was calculated using the California EPA (CalEPA) chronic reference exposure level (REL) for acrolein. The EPA is in the process of updating the Integrated Risk Information System (IRIS) reference concentration (RfC) for acrolein but did not complete this update prior to signature of this final rule.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

The results of the chronic inhalation cancer risk assessment, based on actual emissions, show the maximum individual excess lifetime cancer risk (MIR) posed by the 59 facilities is 20-in-1 million, with benzene, 1,3-butadiene, formaldehyde, and acetaldehyde emissions from reciprocating engine testing as the major contributors to the risk. The total estimated cancer incidence from this source category is 0.005 excess cancer cases per year, or one excess case every 200 years. About 2,700 people are estimated to have cancer risks greater than or equal to 1-in-1 million from HAP emitted by this source category, with 60 of those people estimated to have cancer risks above 10-in-1 million. The maximum chronic noncancer target organ-specific hazard index (TOSHI) value for the source category is 0.1 (respiratory) driven by emissions of acrolein, acetaldehyde, formaldehyde, and naphthalene from reciprocating engine testing. No one is exposed to TOSHI levels above 1.

The EPA also evaluated the cancer risk at the maximum emissions allowed by the MACT standard, or ''MACT-allowable emissions.'' Risk results from the inhalation risk assessment using the MACT-allowable emissions indicate that the cancer MIR is 70-in-1 million with benzene, 1,3-butadiene, formaldehyde, and acetaldehyde emissions from reciprocating engine testing driving the risks, and that the maximum chronic noncancer TOSHI value is 0.5 at the MACT-allowable emissions level with acrolein, acetaldehyde, formaldehyde, and naphthalene emissions from reciprocating engine testing driving the TOSHI. The total estimated cancer incidence from this source category considering allowable emissions is expected to be about 0.02 excess cancer cases per year or one excess case every 50 years. Based on MACT-allowable emission rates, approximately 190,000 people are estimated to have cancer risks above 1-in-1 million, with 500 of those people estimated to have cancer risks above 10-in-1 million. No people are estimated to have a noncancer hazard index (HI) above 1.

Table 1 of this preamble indicates that for the Engine Test Cells/Stands source category, the maximum acute HQ could be up to 9, driven by actual emissions of acrolein. To better characterize the potential health risks associated with estimated worst-case acute exposures to HAP, and in response to a key recommendation from the Science Advisory Board's peer review of the EPA's RTR risk assessment methodologies, we examined a wider range of available acute health metrics than we do for our chronic risk assessments. This is in acknowledgement that there are generally more data gaps and uncertainties in acute health reference

values than there are in chronic health reference values. By definition, the acute REL represents a health-protective level of exposure, with effects not anticipated below those levels, even for repeated exposures. However, the level of exposure that would cause health effects is not specifically known. Therefore, when an REL is exceeded and an Acute Exposure Guideline Level (AEGL–1) or Emergency Response Planning Guideline (ERPG–1) level is available (*i.e.,* levels at which mild, reversible effects are anticipated in the general public for a single exposure), we typically use them as an additional comparative measure, as they provide an upper bound for the threshold level of exposure above which exposed individuals could experience effects. As the exposure concentration increases above the acute REL, the potential for effects increases. The highest refined screening acute HQ value was 9 (based on the acute REL for acrolein). This value includes a refinement of determining the highest HQ value that occurs outside the boundaries of affected facilities. In this case the highest value (9) occurs adjacent to a property boundary in a remote wooded location. HQ values at all nearby residential locations are below 1. As noted previously, the highest HQ occurred when the primary source of the acrolein emissions from turbine engine testing operations was modeled with an hourly emissions multiplier of 9.5 times the annual emissions rate. For further information on the development of this multiplier, see Appendix 1 of the document titled *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this action. The analysis also conservatively assumes all emission points at the facility impact the same receptor at the same time. As presented in Table 2, no facilities are estimated to have an HQ greater than 1 based on an AEGL or an ERPG.

Regarding multipathway risk screening, of the 59 facilities in the source category, 21 facilities reported emissions of carcinogenic hazardous air pollutants known to be persistent and bio-accumulative in the environment (PB–HAP) (arsenic and polycyclic organic matter (POM)), and 23 facilities reported emissions of non-carcinogenic PB–HAP (cadmium and mercury). Three of these facilities reported emissions of a carcinogenic PB–HAP (arsenic) that exceeded a Tier 1 cancer screening threshold emission rate, and one facility reported emissions of non-carcinogenic PB–HAP (cadmium and mercury) that exceeded a Tier 1 noncancer screening threshold emission rate. For facilities that exceeded the Tier 1 multipathway screening threshold emission rate for one or more PB–HAP, we used additional facility site-specific information to perform a Tier 2 screening assessment and determined the maximum chronic cancer and noncancer impacts for the source category. Based on the Tier 2 multipathway cancer assessment, the arsenic emissions exceeded the Tier 2 screening threshold emission rate by a factor of 2. An exceedance of a screening threshold emission rate in any of the tiers cannot be equated with a risk value or an HQ (or HI). Rather, it represents a high-end estimate of what the risk or hazard may be. For example, a screening threshold emission rate of 2 for a non-carcinogen can be interpreted to mean that we are confident that the HQ would be lower than 2. Similarly, a tier screening threshold emission rate of 30 for a carcinogen means that we are confident that the risk is lower than 30-in-1 million. Our confidence comes from the conservative, or health-protective, assumptions encompassed in the screening tiers: We choose inputs from the upper end of the range of possible values for the influential parameters used in the screening tiers, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. The Tier 2 noncancer screening threshold emission rate for both mercury and cadmium emissions were below 1. Thus, based on the Tier 2 results presented above, additional screening or site-specific assessments were not deemed necessary.

The EPA also conducted an environmental risk screening assessment for the Engine Test Cells/Stands source category for the following pollutants: Arsenic, cadmium, hydrochloric acid (HCl), hydrogen fluoride (HF), lead, mercury (methyl mercury and mercuric chloride), and POM. In the Tier 1 screening analysis for PB–HAP (other than lead, which was evaluated differently), arsenic and POM emissions had no exceedances of any of the ecological benchmarks evaluated. Divalent mercury, methyl mercury, and cadmium emissions had Tier 1 exceedances at one facility of surface soil benchmarks by a maximum screening value of 3. A Tier 2 screening analysis was performed for divalent mercury, methyl mercury, and cadmium emissions. In the Tier 2 screening analysis, there were no exceedances of any of the ecological benchmarks evaluated for any of the pollutants. For lead, we did not estimate any exceedances of the secondary lead National Ambient Air Quality Standard (NAAQS). For HCl and HF, the average modeled concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. In addition, each individual modeled concentration of HCl and HF (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

An assessment of risk from facility-wide emissions was performed to provide context for the source category risks. The results of the facility-wide risk assessment for both MACT sources and non-MACT sources (*i.e.,* sources at the facility that are not included in the Engine Test Cells/Stands source category) indicate that 23 facilities included in the analysis have a facility-wide cancer MIR greater than or equal to 1-in-1 million, and 10 of those facilities have a facility-wide cancer MIR greater than or equal to 10-in-1 million. The maximum facility-wide cancer MIR is 70-in-1 million, mainly driven by emissions of chromium (VI) compounds from organic solvent (miscellaneous volatile organic compounds (VOC)) evaporation. The total estimated cancer incidence from the whole facility is 0.03 excess cancer cases per year, or one excess case every 33 years. Approximately 190,000 people were estimated to have cancer risks above 1-in-1 million from exposure to HAP emitted from both MACT and non-MACT sources at the 59 facilities in this source category, with 6,800 of those people estimated to have cancer risks above 10-in-1 million. The maximum facility-wide chronic noncancer TOSHI (neurological) for the source category is estimated to be less than 1 (at 0.4), mainly driven by emissions of lead compounds and hydrogen cyanide from open burning of rocket propellant (an industrial solid waste disposal process) and by trichloroethylene emissions from liquid waste (a general waste treatment process). None of the population around the 59 facilities are exposed to noncancer HI levels above 1, based on facility-wide emissions.

To examine the potential for any environmental justice issues that might be associated with the source category, the EPA performed a demographic analysis, which is an assessment of risks to individual demographic groups of the

populations living within 5 kilometers (km) and also the populations living within 50 km of the facilities. In each case, we found that just over 40 percent of the residents within these distances are classified as minority (compared to a national minority average of 38 percent of the population). When examining the population exposed to a cancer MIR at or above 1-in-1 million, we found that only 10 percent of them are categorized as minorities. Further, none of the population around the facilities is exposed to a chronic noncancer TOSHI greater than 1. For more information regarding the methodology and the results of the demographic analysis, see the technical report titled *Risk and Technology Review-Analysis of Demographic Factors for Populations Living Near Engine Test Cells/Stands Source Category Operations,* which is available in the docket for this action.

The EPA weighed all health risk factors in our risk acceptability determination, and we proposed that the residual risks from this source category are acceptable. We then considered whether the current NESHAP for the source category provides an ample margin of safety to protect public health, and whether more stringent standards are necessary to prevent an adverse environmental effect, by taking into consideration costs, energy, safety, and other relevant factors. In determining whether the current standards provide an ample margin of safety to protect public health, we examined the same risk factors that we investigated for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emission control options that might reduce risk associated with emissions from the source category. We proposed that the 2003 Engine Test Cells/Stands NESHAP requirements provide an ample margin of safety to protect public health. Based on the results of our environmental risk screening assessment, we also proposed that more stringent standards are not necessary to prevent an adverse environmental effect.

2. How did the risk review change for the Engine Test Cells/Stands source category?

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed.

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

The EPA received comments in support of and against the proposed risk review and our proposed determination that no revisions are warranted under CAA section 112(f)(2). Comments that were not supportive of the risk review were considered at length.

Comment: One commenter argued that the EPA had failed to quantify and reduce the health risks posed by lead emissions. The commenter noted that engine test cells/stands emit 0.03 tons of lead per year. The commenter noted that lead is particularly harmful to children and the developing fetus. The commenter was concerned the EPA had not quantified the health risks from lead emissions and disagreed with the Agency's determination that no individual source is causing an exceedance of the NAAQS for Lead. The commenter asserted that EPA must not ignore the health risks lead causes, given that lead is a well-known toxic heavy metal with diverse and severe health impacts for which there is no safe level for human exposure. In particular, the commenter stated that lead is associated with neurological, hematological, and immune effects on children and hematological, cardiovascular, and renal effects on adults. The commenter also noted that children are particularly sensitive to the effects of lead, including sensory, motor, cognitive, and behavioral impacts. The commenter further noted that no safe blood lead level in children has been identified; that low levels of lead in blood have been shown to affect IQ and academic achievement; and that the effects of lead exposure cannot be remedied. According to the commenter, a recent study found that for every 0.2 micrograms per deciliter (µg/dL) of lead in the blood, an adolescent's IQ was reduced one point. Children residing in poverty and black children face higher exposures to lead and are consequently more susceptible to lead's health impacts. Reproductive effects, such as decreased sperm count in men and spontaneous abortions in women, have been associated with lead exposure. The commenter noted that the EPA has classified lead as a probable human carcinogen.

The commenter disagreed with the EPA's use of the 2008 lead NAAQS as a benchmark for determining acceptable risk and argued that the EPA's assessment of the health risks for lead was inadequate. The commenter noted that the EPA, Centers for Disease Control and Prevention (CDC), CalEPA, and the American Academy of Pediatrics (AAP) acknowledge that no safe level of lead can be identified. By relying on the lead NAAQS rather than conducting an independent risk assessment, the commenter believed the EPA's risk assessment for lead was inadequate because the EPA had not assessed the inhalation risks (from breathing) and multipathway risks (from other types of exposure). The commenter argued that the EPA cannot presume that achieving an ambient air concentration of the NAAQS for lead is sufficient to ensure an acceptable health risk and provide an ''ample margin of safety to protect public health'' from lead for CAA section 112(f) purposes. The commenter observed that the NAAQS recognizes harm (including the loss of IQ points as an indicator of neurological harm) occurs below the level of the NAAQS.

The commenter also noted that the Children's Health Protection Advisory Committee (CHPAC) has advised the EPA to lower the lead NAAQS to 0.02 micrograms per cubic meter (µg/m^3) because the 2008 Lead NAAQS ''is insufficient to protect children's health.'' The commenter argued that the current NAAQS addresses air-related population mean IQ loss in excess of 2 points and recognizes that on average higher neurological harm is occurring under the 2008 lead NAAQS. The commenter believed that it is likely harm occurs below the level of the 2008 NAAQS and that it is unacceptable for the EPA to ignore the harm caused by lead emissions. The commenter argued that EPA must address and incorporate the best currently available information on children's exposure, including the CHPAC recommendation of lowering the lead standards to 0.02 µg/m^3 from the current NAAQS level of 0.15 µg/m^3. The commenter noted that the CDC has recognized that there is no safe level for lead exposure and uses a reference level of 5 µg/dL, while California's health benchmark level at which measurable neurological harm can occur is 1.0 µg/dL. The commenter recommended that the EPA use the Integrated Exposure Uptake Biokinetic model for infants and children and the Adult Lead Methodology for fetus. In addition, the commenter suggested that the EPA should update the residual risk assessment for this source category to include available test data on lead in soil and waterways and to evaluate the potential health impacts resulting from the emission of lead from each facility. The commenter believes that additional monitoring should also be required to ensure that lead emitted from a facility

is at low enough concentrations such that it does not raise an individual's blood lead level by 1 µg/dL.

Response: The EPA disagrees with the commenter's assertion that we failed to assess risks from either lead or lead compounds for the Engine Test Cells/Stands source category. The inhalation risks of lead were assessed using Human Exposure Model, Version 1.5.5 (HEM–3) and the RfC values documented in Table 1 of Appendix 8 of the document titled, *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2019 Risk and Technology Review Proposed Rule.* The lead NAAQS was used to assess multipathway risk from lead emissions. See 84 FR 20218, May 8, 2019. The standard provided the benchmark for our decision that further assessment of health impacts from lead exposure from category sources is not necessary and is an otherwise appropriate use of the standard.

We also disagree with the commenter's assertion that either the use of the lead NAAQS does not sufficiently protect public health from lead emissions from this source category or the setting of the lead NAAQS did not reflect an adequate scientific assessment of risk. While recognizing that lead has been demonstrated to exert ''a broad array of deleterious effects on multiple organ systems,'' the lead NAAQS targets the effects associated with relatively lower exposures and associated blood lead levels, specifically nervous system effects in children, including cognitive and neurobehavioral effects (73 FR 66976, November 12, 2008). The EPA establishes the NAAQS at a level to protect sensitive subpopulations, such as children and pregnant women. The 2008 decision on the lead NAAQS was informed by an evidence-based framework for neurocognitive effects in young children. In applying the evidence-based framework, the EPA focused on a subpopulation of U.S. children, those living near air sources and more likely to be exposed at the level of the standard; to the same effect.[2] In addition, in reviewing and sustaining the primary lead NAAQS, we note that the Court specifically noted that the lead NAAQs was targeted to protect children living near lead sources: ''EPA explained that the scientific evidence showing the impact of lead exposure in young children in the United States led it 'to give greater prominence to children as the sensitive subpopulation in this review' and to focus its revision of the lead NAAQS on the 'sensitive subpopulation that is the group of children living near [lead emission] sources and more likely to be exposed at the level of the standard.' Given the scientific evidence on which it relied, the EPA's decision to base the revised lead NAAQS on protecting the subset of children likely to be exposed to airborne lead at the level of the standard was not arbitrary or capricious.'' *Coalition of Battery Recyclers,* 604 F. 3d 613, 618 (D.C. Cir. 2010).

As noted in the risk assessment document, there is no reference dose (RfD) or other comparable chronic health benchmark value for lead compounds. In 1988, the EPA's IRIS program also reviewed the health effects data regarding lead and its inorganic compounds and determined that it would be inappropriate to develop an RfD for these compounds, stating, ''A great deal of information on the health effects of lead has been obtained through decades of medical observation and scientific research. This information has been assessed in the development of air and water quality criteria by the Agency's Office of Health and Environmental Assessment (OHEA) in support of regulatory decision-making by the Office of Air Quality Planning and Standards and by the Office of Drinking Water. By comparison to most other environmental toxicants, the degree of uncertainty about the health effects of lead is quite low. It appears that some of these effects, particularly changes in the levels of certain blood enzymes and in aspects of children's neurobehavioral development may occur at blood lead levels so low that a threshold has yet to be determined. The Agency's RfD Work Group discussed inorganic lead (and lead compounds) at two meetings (07/08/1985 and 07/22/1985) and considered it inappropriate to develop an RfD for inorganic lead.''

The EPA's IRIS assessment for lead and lead compounds (inorganic) (CASRN 7439–92–1) can be found at: *https://www.epa.gov/iris/subst/0277.htm.*

With regard to the information identified by the commenter, much of this information was similar to information available at the time of the 2008 NAAQS decision. For example, in 2005, the CDC recognized the evidence of adverse health effects in children with blood lead levels below 10 µg/dL, and that there is no safe level of blood lead in young children.[3] The commenter also cites a benchmark analysis by California EPA OEHHA that was completed during the time of the last review.[4] The quantitative relationship from this analysis of a correlation of one IQ point change with a 1.0 µg/dL change in blood lead is actually a substantially smaller change in IQ per µg/dL blood lead than the slope of 1.75 IQ points per µg/dL blood lead used in the evidence-based framework that the Administrator relied upon in his 2008 decision on a revised level for the lead NAAQS (73 FR 66964, November 12, 2008). Regarding the CHPAC recommendation on level and averaging time referenced by the commenter, this was made to the EPA in January 2015 in the context of the current NAAQS review and the same comment was made and considered in the 2008 review that concluded with the current lead NAAQS.

We also disagree with the comment that EPA cannot presume that achieving an ambient air concentration of the NAAQS for lead is sufficient to ensure acceptable health risk and provide an ''ample margin of safety to protect public health'' from lead for CAA section 112(f) purposes. The EPA considered the primary NAAQS for lead—which incorporates an adequate margin of safety—in determining whether lead risks (taken together with cancer and other noncancer health risks) from air-borne lead from engine test facilities are acceptable or unacceptable, under CAA section 112(f)(2). As explained at proposal, ample margin of safety determinations, under CAA section 112(f)(2) are conducted separately, in accord with the two-step framework set forth in the Benzene NESHAP and *NRDC* v. *EPA* (the Vinyl Chloride Decision), 824 F. 2d at 1165, 1166 (D.C. Cir. 1987) and *NRDC* v. *EPA,* 902 F. 2d 962, 973–74 (D.C. Cir. 1990) (distinguishing the NAAQS process,

[2] See for example, 73 FR 67000/3—''The framework in effect focuses on the sensitive subpopulation that is the group of children living near sources and more likely to be exposed at the level of the standard. The evidence-based framework estimates a mean air-related IQ loss for this subpopulation of children; it does not estimate a mean for all U.S. children''; see also 73 FR 67005/1—''the air-related IQ loss framework provides estimates for the mean air-related IQ loss of a subset of the population of U.S. children, and there are uncertainties associated with those estimates. It provides estimates for that subset of children likely to be exposed to the level of the standard, which is generally expected to be the subpopulation of children living near sources who are likely to be most highly exposed.''

[3] CDC (2005), *Preventing Lead Poisoning in Young Children: A Statement by the Centers for Disease Control and Prevention.* August 2005. *https://www.cdc.gov/nceh/lead/publications/prevleadpoisoning.pdf.*

[4] Carlisle, J. and K. Dowling. *Development of health criteria for school site risk assessment pursuant to health and safety code section 901(g): Child-specific benchmark change in blood lead concentration for school site risk assessment.* Final Report. Sacramento: Integrated Assessment Branch, OEHHA, California EPA. April 2007.

whereby the margin of safety analysis is incorporated as part of the standard without a two-step analysis, from residual risk determinations).[5] See 84 FR 20218 n.28.

After review of all the comments received, we determined that no changes needed to be made to the underlying risk assessment methodology. Additional comments and our specific responses can be found in the document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

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

The EPA evaluated all of the comments on the EPA's risk review and determined that no changes to the review are needed. For the reasons explained in the proposed rule, we proposed that the risks from the Engine Test Cells/Stands source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our risk review as proposed, and we are readopting the current standards.

B. Technology Review for the Engine Test Cells/Stands Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Engine Test Cells/Stands source category?

Pursuant to CAA section 112(d)(6), the EPA conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for control of HAP emissions from engine testing facilities. No cost-effective developments in practices, processes, or control technologies were identified in our technology review to warrant revisions to the standards. More information concerning our technology review is in the memorandum titled *Technology Review for the Engine Test Cells/Stands Source Category,* which is in the docket for this action, and in the preamble to the proposed rule (84 FR 20208, May 8, 2019).

2. How did the technology review change for the Engine Test Cells/Stands source category?

The technology review has not changed since proposal.

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

The EPA received comments in support of the proposed determination from the technology review that no revisions were warranted under CAA section 112(d)(6). We also received comments asserting that the technology review was inadequate for a variety of reasons, primarily because of failure to consider control technologies developed since the original NESHAP.

Comment: One commenter noted that advances in diesel engine design had greatly reduced air emissions from diesel engine test cells over the last few years. The commenter stated that new diesel engines are cleaner than they used to be and, as a result, emissions from engine test cells and stands also declined because they are testing engines that are operating more cleanly and efficiently. The commenter noted the EPA is moving forward with new diesel truck standards. The commenter thought the changes in the emissions from engines should allow test cells to reduce their emissions. These advances, the commenter argued, are developments the EPA should take into account. The commenter thought the EPA should revise the emission standards based on the ability to reduce emissions due to cleaner engines. The EPA should evaluate advances in more efficient engines and operating technology; use of lower HAP fuels; and alternative engines that do not rely on HAP-emitting fuels. The commenter argued that the EPA did not evaluate or take into account any of these developments, which the commenter contended was ''unlawful, arbitrary, and capricious under § 7412(d)(6).''

Response: The EPA disagrees with the commenter's assertion that the existing MACT standard should be lowered due to new emission standards for diesel engines and advances in diesel engine design (presumably under CAA sections 202 and 213). We also disagree with the commenter's contention that by not considering these developments our technology review is ''unlawful, arbitrary and capricious.'' CAA section 112(d)(6) requires the EPA to conduct a technology review to determine if there are ''developments in practices, processes, or control technologies'' that may be appropriate to incorporate into existing standards. At proposal, we did not propose any revision to the current MACT standard under CAA section 112(d)(6). We explained that the technology basis for the MACT standard was the use of add-on capture systems and control devices *(i.e.,* thermal oxidizers or catalytic oxidizers) and that our technology review under CAA section 112(d)(6) did not identify any new or improved add-on control technology, or any new work practices, operational procedures, process changes, or pollution prevention approaches that reduce emissions in the category that have been implemented at engine testing operations since promulgation of the current NESHAP. See 84 FR 20225–26, May 8, 2019.

Additionally, the emission standards in 40 CFR part 63, subpart PPPPP apply to the collection of engine test cells/stands located at a major source of HAP emissions that are used to test uninstalled stationary engines or uninstalled mobile engines. The subpart PPPPP standards do not apply to individual engines or to final products, such as automobiles or light and heavy-duty trucks. Rather, the purpose of engine testing is to simulate the operation of a specific type of engine under certain environmental conditions. In some cases, the testing confirms a new or refurbished engine is assembled correctly and will function as intended. In other cases, the testing measures the durability and performance of a new engine design or a new engine component.

In sum, under the CAA section 112(d)(6) technology review, the EPA is concluding that there are no new cost-effective controls that would achieve further emissions reductions and that the existing numerical emission limits in the NESHAP should be retained. For these reasons, consistent with the EPA's proposal, the emission limits in the NESHAP are not being revised.

Comment: One commenter was concerned the EPA had not collected the best available information on current controls and thought the EPA should have requested information from pollution control manufacturers and distributors, consulted with states and local air districts, consulted with the Institute of Clean Air Companies, and requested information from pollution control and monitoring companies regarding developments in controls for HAP pollutants. The commenter believed this information was readily available to the EPA and failing to contact control manufacturers biased the EPA's technology review away from the most current developments. The commenter thought the EPA should have assessed the technologies and tools

[5] The Court was referring to the predecessor provision to the current CAA section 112(f), but its analysis is equally applicable to the revised provision.

available in the market for the control of the pollutants and provide the information for notice-and-comment. The commenter believed that providing this information to the public would have a positive impact on the regulated industry, as well as community members exposed to pollution. The commenter thought this information could lead facilities to implement pollution controls with which they are not currently familiar and would create jobs and increase the economic success both of the regulated facility and the company selling the control or monitoring tools.

Response: The EPA disagrees with the commenter. CAA section 112(d)(6) requires the EPA to review and revise standards ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every 8 years. Pursuant to CAA section 112(d)(6), the EPA may consider cost in deciding whether to revise existing standards. Our review of control technologies and current industry processes and practices identified no new cost-effective controls that would achieve further emission reductions. As explained in the proposal preamble, the EPA completed a technology review as part of this rulemaking, which focused on identifying and evaluating any developments in practices, processes, and control technologies that occurred since 2003. See 84 FR 20213–14, 20225–26, May 8, 2019. In conducting the technology review for the Engine Test Cells/Stands source category, the EPA looked for add-on control technology that was not identified during the original NESHAP development and for improvements to existing add-on controls. We also looked for new work practices, operational procedures, process changes, and pollution prevention alternatives that have the potential to reduce emissions. We conducted extensive research to help us identify developments in control technology, work practices and procedures that could potentially reduce HAP emissions. Developments in practices, processes, and control technologies were investigated through discussions with industry representatives, searches of the EPA's Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emissions Rate Clearinghouse, site visits, and literature searches. We met several times with industry representatives and visited engine test facilities at four different plants. We also included questions in a questionnaire that specifically asked companies to provide information on their add-on control devices and any work practices they use to reduce emissions. The questionnaire was completed by multiple companies and covered over 40 individual facilities known to operate engine test cells/stands. Fifteen of these facilities were located at major sources of HAP, while the remainder were located at area sources. The Agency's review found no new add-on control technology, no developments in existing add-on control technology, and no new work practices, operational changes, or pollution prevention practices that would result in further reductions in emissions from this source category. For a detailed discussion of the findings, please refer to the *Technology Review for the Engine Test Cells/Stands Source Category* memorandum, in the docket (Docket ID Item No. EPA–HQ–OAR–2018–0753–0031).

The EPA also reviewed numerous construction and operating permits issued by permitting authorities to major and area sources that operate engine test facilities. As part of these reviews, we looked for any new control technology or work practice standards required by a state or local agency. We also provided a 45-day comment period on our proposed conclusion that would allow industry, state, and local air agencies, control device manufacturers, and other stakeholders to provide information on any new technologies and work practices that we may have overlooked. However, no new technologies or work practice approaches were identified in the public comments we received. Commenters did not provide any additional information on control technology for this source category and the EPA did not receive any additional information based on the proposal. The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem and courts generally defer to the Agency's decision to proceed on the basis of imperfect scientific information, rather than to ''invest the resources to conduct the perfect study.'' *Sierra Club* v. *EPA,* 167 F. 3d 658, 662 (D.C. Cir. 1999).

For these reasons, the EPA is not persuaded by these comments and rather considers our review to be sufficiently rigorous. If any improvements in control technology, work practices, operational procedures, process changes, or pollution prevention approaches occurred since the 2003 NESHAP was finalized, we would have identified them. Since our review did not identify any improvements and no new methods have been identified during the public comment period, we are finalizing as proposed our determination that no changes to the emission standards are required pursuant to CAA section 112(d)(6).

Comment: One commenter noted that no reduction in emission limits for this source category has occurred since 2003 and stated that better control technology is available that would make further emission reductions possible.

Response: The EPA disagrees with the commenter. As explained previously, our review of control technologies and current industry processes and practices identified no new cost-effective controls that would achieve further emission reductions. Although the commenter stated that better technology is available, the commenter did not identify or provide evidence demonstrating any control technology that would achieve lower HAP emissions from engine test cells/stands. As explained previously, the Agency's review found no new add-on control technology, no developments in existing add-on control technology, and no new work practices, operational changes, or pollution prevention practices that would result in further reductions in emissions from this source category. For a detailed discussion of the findings of our technology review, please refer to the *Technology Review for the Engine Test Cells/Stands Source Category* memorandum, which is available in the docket (Docket ID Item No. EPA–HQ–OAR–2018–0753–0031).

Additional comments and our specific responses can be found in the comment summary and response document titled, *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

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

The EPA evaluated all of the comments on the EPA's technology review and determined that no changes to the review are needed. For the reasons explained in the proposed rule, we determined that no cost-effective developments in practices, processes, or control technologies were identified in our technology review to warrant revisions to the standards. More information concerning our technology review, and how we evaluate cost effectiveness, can be found in the memorandum titled *Technology Review for the Engine Test Cells/Stands Source Category,* which is available in the docket for this action, and in the

preamble to the proposed rule (84 FR 20208, May 8, 2019). Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed.

C. SSM for the Engine Test Cells/Stands Source Category

1. What did we propose for the Engine Test Cells/Stands source category?

The EPA is finalizing the proposed amendments to the Engine Test Cells/Stands NESHAP to remove or revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. The EPA proposed the amendments to remove or revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the elimination or revision of SSM provisions is detailed in the preamble to the proposed rule (84 FR 20208, May 8, 2019).

2. How did the SSM provisions change for the Engine Test Cells/Stands source category?

The EPA is finalizing the SSM provisions as proposed (84 FR 20208, May 8, 2019) with minor changes to the General Provisions table (Table 7) and related cross-references to correct inadvertent errors made at proposal. These include the following:

- Addition of language in Table 7 indicating that several provisions are still applicable for 180 days following the effective date of this final rule; and
- Removal of cross-references to SSM exemption-related provisions.

We also note that because the final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable, the EPA is adding to the rule at 40 CFR 63.9355(c)(5) text that is identical to 40 CFR 63.8(d)(3) except that the final sentence is replaced with the following sentence: ''The program of corrective action should be included in the plan required under § 63.8(d)(2).'' A public comment was also received on this issue and more information can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action;

For reasons more fully described in the preamble at proposal, we also proposed to revise 40 CFR 63.9305 to add regulatory text regarding the general duty to minimize emissions. However, a typographical error was inadvertently made at the end of the sentence, ''The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieve.'' This sentence should have read as follows, and we are finalizing it as such: ''The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved.''

Also, for reasons more fully described at proposal, we proposed to revise 40 CFR 63.9355 to add regulatory text regarding the requirements to record actions taken to minimize emissions and to record corrective actions. However, in 40 CFR 63.9355(a)(6), we inadvertently left the words ''the cause'' out of the sentence that read, ''For each failure record the date, time and duration of each failure.'' This sentence should have read as follows, and we are finalizing it as such: ''For each failure record the date, time, the cause and duration of each failure.''

Finally, while we proposed to revise the performance testing requirement at 40 CFR 63.9321 to remove the language ''according to the requirements in § 63.7(e)(1)'' (because 40 CFR 63.7(e)(1) restated the SSM exemption), rule text showing this change was inadvertently not provided in the amendatory text appearing toward the end of the proposal document. Because this change, and the rationale for it, was adequately described in the proposal preamble, we are finalizing it as proposed.

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

The EPA received comments related to our proposed revisions to the SSM provisions. One commenter generally supported the proposed revisions to the SSM provisions but disagreed with the Agency's approach to malfunctions.

Comment: One commenter disagreed with the EPA's assertion that the Agency has the discretion to set standards for malfunctions where feasible. The commenter asserted that the EPA has only the discretion provided by the CAA (See, *e.g., Clean Air Council* v. *EPA,* 862 F.3d at 9 (D.C. Cir. 2018)) and that the CAA does not give the EPA authority to set malfunction-based standards or exemptions (See 42 U.S.C. 7412(d), (h), and 7602(k)). The commenter noted the EPA has not acted on a petition for reconsideration that was filed when the EPA set a malfunction standard in the Refinery Sector Rule (See *Air Alliance Houston et al.* v. *EPA,* D.C. Cir. No. 16–1035 (filed February 7, 2016), which held amendments in abeyance pending EPA action on reconsideration). The commenter contends their reconsideration petition and comments filed in support of that petition and offered at the November 2016 public hearing have shown that the Refinery Sector Rule malfunction exemption is unlawful and arbitrary and should be removed from the standards. Since the EPA has not acted on the reconsideration petition and the Court has held the case in abeyance, the commenter said that no other similar proposals for other source categories should be made until the Refinery Sector Rule petition is resolved. The commenter maintains that the malfunction exemption in the Refinery Sector Rule remains under a cloud of substantial controversy and is unlawful and arbitrary.

Response: The EPA disagrees with the commenter's statement that the EPA lacks the authority to set standards for malfunctions. In fact, in the Court's decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008) vacating the SSM exemption in EPA's regulations implementing CAA section 112, the Court held that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that when CAA sections 112 and 302(k) are read together, Congress has required that there must be continuous CAA section 112–compliant standards. Pursuant to that holding, the EPA must apply a standard to periods of malfunction. In this final rule, the EPA has removed the SSM exemption and has required compliance with the existing standards during periods of SSM. Thus, the EPA has set a standard for periods of SSM as required by the *Sierra Club* decision.

The commenter's discussion of the EPA's decision in the Refinery Sector Rule, to set a standard for a particular type of malfunction that is different than the standards that apply in other circumstances, is not relevant here because the standards in this final rule for engine test cells apply to at all times, including during periods of malfunction. The commenter also

characterizes the Refinery Sector Rule as containing a malfunction exemption, so it is not clear whether the commenter's concern is with a standard that applies during malfunctions. In any event, the commenter's claim that the EPA has no authority to set standards for malfunctions is inconsistent with the *Sierra Club* SSM case.

Additional comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

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

The EPA evaluated all of the comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the proposed rule (84 FR 20208, May 8, 2019) and in section III.C of this preamble, we are finalizing our approach for the SSM provisions as proposed other than the minor changes detailed previously.

D. Electronic Reporting Requirements for the Engine Test Cells/Stands Source Category

1. What did we propose for the Engine Test Cells/Stands source category?

The EPA proposed that owners and operators of engine test cells/stands must submit electronic copies of required performance test reports, performance evaluation reports, and semiannual compliance reports through the EPA's CDX using the CEDRI. More information concerning our proposal on electronic reporting requirements can be found in the proposed rule (84 FR 20208, May 8, 2019).

2. How did the electronic reporting provisions change for the Engine Test Cells/Stands source category?

Since proposal, the electronic reporting provisions have not changed.

3. What key comments did we receive on the electronic reporting provisions, and what are our responses?

The EPA received comments both in support of and against the proposed electronic reporting provisions.

Comment: One commenter supported the proposed use of electronic reporting but recommended the EPA make certain changes to the proposed reporting and recordkeeping requirements. The commenter supported electronic reporting if it reduces regulatory burden, provides flexibility, and creates efficiencies for regulated entities. Although the commenter was supportive of electronic reporting, they wanted to ensure there is an orderly transition to the new reporting system. The commenter requested that the EPA should address the following issues:

- The addition of electronic reporting should not establish any new data requirements beyond what is currently required by the regulation. All data reporting requirements should tie to a regulatory citation;
- The reporting system should allow companies the option to provide explanatory comments on data or information submitted;
- Electronic reporting should not place further restrictions on who is eligible to submit a report;
- Sufficient compliance time should be allowed for companies to implement the revised requirements and to integrate EPA and company systems;
- Regulatory language should allow companies to submit hardcopy reports if there are problems with the EPA's reporting system availability or company systems;
- Electronic reporting should allow companies to submit reports as Portable Document Format (PDF) documents;
- The reporting system should allow updates or corrections to be submitted;
- The EPA should work with other regulatory authorities (*i.e.,* states, local agencies) to establish comparable or compatible electronic systems. The commenter said that electronic reporting to the EPA would not reduce reporting burden if companies reporting electronically to the EPA still have to submit hardcopy reports to other agencies that do not have electronic systems; and
- Any reporting templates should be available for review at the time a rule is proposed.

Response: The EPA acknowledges the comment. The new requirement to submit reports electronically does not establish any new data requirements, will allow facilities to submit some performance test results as an attachment within the electronic reporting tool (ERT) as well as include additional information in the semiannual report in PDF, allows facilities to make corrections to submittals through the resubmittal process in CEDRI, provides sufficient time for facilities to understand and comply with the new method of submitting reports, and includes provisions allowing extensions to be approved for situations where a facility is unable to successfully submit a report by the reporting deadline due to circumstances beyond their control (*e.g.,* outages of the EPA's CEDRI). Further, once submitted and certified, reports can be accessed by facility personnel and authorized EPA, Regional, state, local, and tribal reviewers.

For the semiannual compliance reports, reporters must use the spreadsheet template provided by the EPA to submit information to CEDRI. Additional information may be supplied through the comment field or as additional attachments through the process described on the Welcome tab of the spreadsheet template. In the proposal, we solicited comment on the content, layout and overall design of the template and a copy of the proposed template was made available in the docket (see *Engine_Test_Cells_Semiannual_Spreadsheet_Template_Draft,* available at Docket ID Item No. EPA–HQ–OAR–2018–0753–0147). 84 FR 20229, May 8, 2019. We received public comments on the draft template, which we took into consideration when preparing the final semiannual compliance report template. A copy of the final semiannual compliance report template is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0753). The official version of the report template is available at the CEDRI homepage (*https://www.epa.gov/electronic-reporting-air-emissions/cedri*).

All facilities must submit their reports electronically. For reports that contain information claimed as CBI, reporters will submit redacted reports electronically and mail complete versions, including the CBI, on a compact disc, flash drive, or other electronic storage media to the EPA. Although facilities will not have the option to continue submitting reports in hardcopy, the EPA provides support for companies on the EPA's CEDRI website, accessed at *https://www.epa.gov/electronic-reporting-air-emissions/cedri.* An overview of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2018–0753.

Comment: One commenter thought that the EPA should provide a notice and comment period only through a **Federal Register** document for all future changes in reporting templates. According to the commenter, at proposal, the EPA noted that the compliance reporting template for engine test facilities will be available on the CEDRI website. At the time of the proposal, the template was only available in the rule docket. While stakeholders can review the template as

it exists currently, the commenter said that any future changes to the template should be made available to affected reporters for comment prior to being adopted. The commenter stated that facilities do not regularly check the CEDRI website and would not be aware of any changes to the template. If the EPA changes the template without notice, the commenter said that facilities may use the wrong template or find they are in noncompliance. The commenter noted that a notification of proposed rules is required to be published in the **Federal Register** pursuant to the CAA and the Administrative Procedures Act (APA). The commenter cited both section 307(d)(3) of the CAA and section 553(b) of the APA as support:

Section 307(d)(3) of the CAA states, in the case of any rule to which this subsection applies, notice of proposed rulemaking shall be published in the **Federal Register**, as provided under section 553(b) of Title 5 [of the United States Code], shall be accompanied by a statement of its basis and purpose and shall specify the period available for public comment. (42 U.S.C. 7607(d)(3)).

Section 553(b) of the APA states that general notice of proposed rulemaking shall be published in the **Federal Register**, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Except when notice or hearing is required by statute, it does not apply to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice, or when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. (5 U.S.C. 553(b).)

The commenter stated that none of the exceptions in the APA would apply to any future changes in reporting templates and noted that the **Federal Register** is the official publication for federal agencies to publish changes in regulatory requirements. The commenter said that companies typically monitor the **Federal Register** daily, but do not typically subscribe to the Clearinghouse for Inventories and Emissions Factors (CHIEF) Listserv or periodically review the CEDRI website. The commenter said that it is not practical for companies to also review the CHIEF Listserv and CEDRI websites and that posting revised templates to these sites is not a ''legally-sufficient substitute for the **Federal Register**.'' The commenter also said that the EPA should provide notice of any proposed changes to electronic reporting requirements in a **Federal Register** notice as this approach will provide the regulated community with the notice that they need to review any proposed regulatory changes, provide comments, and initiate compliance plans. The commenter believed that posting to an EPA website does not provide adequate notice that electronic reporting requirements have changed and recommended that the EPA only make future changes to the template if a **Federal Register** notice is issued and an opportunity for public comment is provided.

Response: The EPA disagrees that future changes to a reporting template require public notice and comment. This rulemaking establishes the process the EPA will use to notify owners/operators of the availability of revised forms and provided interested parties with an opportunity to comment on that process. The fact that the commenters prefer a different process does not mean that the EPA lacks the authority to adopt the process proposed. We are making the CEDRI forms consistent with the underlying regulations, and as such, the public has already had a chance to review and comment on the content of these reports. These underlying regulations establish clear and objective criteria for EPA to apply in future non-rulemaking actions. The application of regulatory criteria to future individual situations does not require notice and comment rulemaking, either under section 307(d) of the CAA or the APA.

The EPA has amended the template to display the date of creation and revision number of the template. The date of the final rule is not included in the template.

Comment: One commenter disagreed with the EPA's proposed extension provisions for CEDRI outages or force majeure events. The commenter thought the proposed extension provisions were ''unlawful and arbitrary.'' The commenter argued that the extension provisions do not set a firm deadline to either submit required reports or to request an extension of the reporting deadline. The commenter also disagreed with the provision: ''[t]he decision to accept the claim . . . and allow an extension to the reporting deadline is solely within the discretion of the Administrator'' and with the EPA's proposed definition of ''force majeure event.'' The commenter believed these provisions were too broad and vague and was concerned a facility would use these provisions to evade the compliance reporting deadlines that assure compliance with applicable standards.

The commenter also thought that the EPA lacked the authority to allow exceptions or extensions for a ''force majeure event'' under the CAA. The commenters said the CAA was enacted to protect public health and welfare, to reduce pollution and the harm it causes, including cancer and other serious health impacts from HAP. The commenter said that creating a ''malfunction exemption'' contravenes the CAA. The commenter noted that the concept of ''force majeure'' comes from contract law and is not applicable to the CAA because it is not a contract. The commenter noted that ''force majeure is a phrase coined primarily for the convenience of contracting parties wishing to describe the facts that create a contractual impossibility due to an 'Act of God.' (See 6 A. Corbin, Corbin on Contracts, section 1324 (1962)). As Corbin points out, this term is outmoded and serves no useful purpose as a test of responsibility.'' *Perlman* v. *Pioneer Limited Partnership,* 918 F.2d 1244, 1248 n.5 (5th Cir. 1990). The commenter urged the EPA to not apply the concept of ''force majeure'' to any part of the CAA and said that doing so would be a variation of the prior malfunction exemptions that were found to be unlawful under the CAA. (See, *e.g., Sierra Club* v. *EPA,* 551 F.3d 1028 (D.C. Cir. 2008); *NRDC,* 749 F.3d at 1062–63). The commenter argued that there is no ''force majeure'' exception allowed for non-compliance with the CAA or its requirements, and that the EPA may not create an exemption because ''the Clean Air Act and amendments thereto contain no force majeure exception.'' *U.S.* v. *Wheeling-Pittsburgh Steel Corp.,* 818 F.2d 1077, 1088 (3d Cir. 1987) (refusing to provide for a free-standing ''force majeure'' exception that would have exempted emission violations that fell outside the contractual term used in a consent decree due to the lack of legal basis to do so). The commenter noted that the Court explained: ''After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.'' *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978).

The commenter thought that while CEDRI outages and some events may be out of a facility's control, the facility owners or operators have many factors within their control. The commenter said the EPA failed to evaluate the steps

a facility could take to predict and prevent delays in the reporting of pollution exceedances related to foreseeable types of events it defines as ''force majeure.'' If the EPA creates a ''force majeure event'' extension provision, the commenter recommended the facility be required to prevent similar problems in the future and report what steps it will take in the future to prevent the same problem from recurring. When there is such a problem, the commenter argued, the need for prompt reporting is important for ensuring actual emission exceedances end. The commenter asserted that allowing an unreasonable extension or not setting any deadline would be unlawful. The commenter thought reporting was especially important during the types of events described by the EPA. The commenter stated that reporting is necessary to protect public health and welfare.

The commenter also said the EPA did not identify any problems or burdens with the electronic reporting system that could justify an extension. The commenter noted that in a proposed rule for the Petroleum Refinery Sector, the EPA had stated: ''We note that the submission of ERT formatted performance test and performance evaluation reports using CEDRI is fully operational, and there are no known or reported system issues . . . In addition, the CDX Helpdesk staff are available during regular business hours to support industry users in completing their submissions electronically using CEDRI.'' The commenter also noted the EPA found that ''over 3,400 ERT files have been submitted to the EPA through CEDRI,'' only 43 help calls were received, and only 9 calls were referred to EPA staff for further assistance (see, NESHAP: Petroleum Refinery Sector Amendments, Proposal, 83 FR 15458, 15469 (April 10, 2018). The commenter said the EPA's proposed extension was not based on evidence of any problem with electronic reporting in the past, based on the record provided for public comment. The commenter said that no evidence was provided showing that a reporting problem could not be resolved through a case-by-case resolution or that any harm has been caused by not having an extension provision.

The commenter was concerned that delayed reporting and potentially failure to report would cause harm because it delays compliance assurance by the EPA, the states, and affected community residents. The commenter thought the extension provision would undermine the health and environmental protections of the standards, resulting in cancer and acute health threats from engine test facilities. The commenter urged the EPA to set a deadline for reporting and to assure that the extension request allows only a temporary delay in reporting, such as a 10-day extension, rather than an open-ended extension with no deadline.

Response: The EPA disagrees with these comments. The final rule requires electronic reporting for all facilities subject 40 CFR part 63, to subpart PPPPP as proposed. The commenter questioned the limited flexibility the EPA proposed (and is finalizing), namely inclusion of electronic reporting provisions for reporters facing circumstances beyond their control. The commenter asserts the case-by-case extension of report submittal deadlines is an ''unlawful exemption [from compliance with] the emissions standards.'' This is not the case, as explained below. The proposed provisions the commenter questions are as follows (emphasis added):

(3) If you are required to electronically submit a report through CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. *You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.* The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(4) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). *If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.* The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

There is no exception or exemption to reporting, much less an exemption from compliance with the numerical emission standards, rather, this regulatory provision only sets out a method for requesting an extension of the reporting deadline. Reporters are required to justify their request and identify a reporting date. There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator (*i.e.,* the EPA Administrator or delegated authority as defined in 40 CFR 63.2) when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a Hurricane Katrina scale event may delay electronic reporting for much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to either access electronically stored data or to submit reports electronically. The Administrator (or delegated authority)

will be the most knowledgeable of the events leading to the request for extension and will assess whether an extension is appropriate, and, if so, a reasonable length for the extension. The Administrator (or delegated authority) may even request that the report be sent in hardcopy until electronic reporting can be resumed. While no new fixed duration deadline is set, the regulation requires that the report be submitted electronically as soon as possible after the CEDRI outage or after the force majeure event resolves.

The concept of force majeure is not arbitrary, as it has been implemented since May 2007 within the CAA requirements through the performance test extensions requirements provided in 40 CFR 63.7(a)(4) and 60.8(a)(1). Like the performance test extensions, the approval of a requested extension of an electronic reporting deadline is at the discretion of the Administrator.

The EPA disagrees that the reporting extension will undermine enforcement because the Administrator has full discretion to accept or reject the claim of a CEDRI system outage or force majeure. As such, an extension is not automatic and is agreed to on an individual basis by the Administrator. If the Administrator determines that a facility has not acted in good faith to reasonably report in a timely manner, the Administrator can reject the claim and find that the failure to report timely is a deviation from the regulation. CEDRI system outages are infrequent, but the EPA knows when they occur and whether a facility's claim is legitimate. Force majeure events (*e.g.,* natural disasters impacting a facility) are also usually well-known events.

Additionally, the ability to request a reporting extension does not apply to a broad category of circumstances; on the contrary, the scope for submitting an extension request for an electronic report is very limited in that claims can only be made for an event outside of the owner's or operator's control that occurs in the 5 business days prior to the reporting deadline. The claim must then be approved by the Administrator, and in approving such a claim, the Administrator would agree that something outside the control of the owner or operator prevented the owner or operator from meeting its reporting obligation. In no circumstance does this electronic reporting extension allow for the owner or operator to be out of compliance with the underlying emissions standards.

The EPA disagrees with the commenter's assumption that the requirement to report ''as soon as possible'' makes it likely that reporting will be significantly delayed, may lead a facility to drag its feet in submitting reports for an extended period, or may lead to a facility never reporting information. Each request for an extension of the electronic reporting deadline must be approved by the Administrator (or delegated authority), and each request must state the time requested for the extension as well as the dates and times at which the unsuccessful attempt(s) to access CEDRI were made in the case of a CEDRI outage. The EPA also disagrees that a delay in reporting due to a CEDRI outage or a force majeure event would necessitate a delay in a corrective action that would be taken to prevent harmful and unlawful emission exceedances. The facility must remain in compliance with all air emissions requirements and has an ongoing responsibility under the general duty clause of 40 CFR 63.6(e) to operate and maintain any affected source in a manner consistent with safety and good air pollution practices for minimizing emissions. An extension of the deadline for submitting an electronic report in no way eliminates culpability for exceedances of emissions limitations or the requirement to address them.

The EPA disagrees that the force majeure extension request must require a facility to report what steps it will take in the future to prevent the same problem from occurring. A force majeure event for the purpose of electronic reporting is defined as ''. . . an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility.'' Examples of such events are acts of nature and acts of war or terrorism. By definition, force majeure events are not something that a facility is able to control, and, thus, there is no way for the facility to prevent it from happening.

The EPA disagrees that the existing statistics on the use of CEDRI and e-reporting precludes the need for a provision to account for an outage of the CEDRI system. Prudent management of electronic data systems builds in allowances for unexpected, non-routine delays, such as occurred on July 1, 2016, and October 20–23, 2017, and is consistent with the already-existing provisions afforded for unexpected, non-routine delays in performance testing (see 40 CFR 60.8(a)(1) and (2) and 40 CFR 63.7(a)(4)). For both electronic reporting and performance testing, owners or operators are to conduct and complete their activities within a short window of time; the EPA believes that it is prudent to allow owners or operators to make force majeure claims for situations beyond their reasonable control. The EPA also disagrees that incidental issues with questions on completing the form or the procedures for accessing CEDRI for which the CEDRI Helpdesk is available, are conditions that would be considered either force majeure or a CEDRI system outage. The existence of the Helpdesk for answering questions on procedures in submitting reports to CEDRI have no impact on the availability of CEDRI in such a circumstance.

The purpose of these requests for extensions are to accommodate owners and operators in cases where they cannot successfully submit a report electronically for reasons that are beyond their control and occur during a short window of time prior to the reporting deadline. The extension is not automatic, and the Administrator retains the right to accept or reject the request. The language was added as part of the standard electronic reporting language based on numerous comments received on the proposal for the Electronic Reporting and Recordkeeping Requirements for the New Source Performance Standards (80 FR 15100, March 20, 2015).

Additional comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

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

The EPA evaluated all of the comments on the EPA's proposed amendments to the electronic reporting provisions. For the reasons explained in the proposed rule (84 FR 20208, May 8, 2019), we have determined the electronic submittal of the reports addressed in this final rule will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time

and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [6] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy [7] developed in response to the White House's Digital Government Strategy.[8] For more information on the benefits of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP),* available in Docket ID No. EPA–HQ–OAR–2018–0753.

E. Technical and Editorial Changes for the Engine Test Cells/Stands Source Category

1. What did we propose for the Engine Test Cells/Stands source category?

The EPA proposed the following technical and editorial changes to the existing NESHAP for the source category:

- Revising the monitoring requirements in 40 CFR 63.9307 to add THC as a continuous emission monitoring option and to add Performance Specification 8A and EPA Method 25A;
- Revising the initial compliance requirements in 40 CFR 63.9320 to include a provision for the performance test to be used to demonstrate compliance;
- Revising Tables 3 and 4 to 40 CFR part 63, subpart PPPPP, to add an alternative compliance option; and
- Revising section 40 CFR 63.9350 to address the reporting of performance tests and performance evaluations.

2. How did the technical and editorial changes change for the Engine Test Cells/Stands source category?

Since proposal, the technical and editorial changes have not changed.

3. What key comments did we receive on the technical and editorial changes, and what are our responses?

While no comments were received on the particular technical and editorial changes detailed above, additional comments of a technical and editorial nature were received. Our specific responses to those comments can be found in the document titled *Summary of Public Comments and Responses for the Residual Risk and Technology Review for Engine Test Cells/Stands,* which is available in the docket for this action.

4. What is the rationale for our final approach for the technical and editorial changes?

Because no comments were received on the technical and editorial changes that the EPA proposed, we determined that these changes should be finalized as proposed.

F. Additional Issue on Which Comment Was Requested: Prior Approval for an Aspect of Performance Testing

1. What did we propose for the Engine Test Cells/Stands source category?

In the proposal, the EPA specifically solicited comment on an aspect of initial performance testing. According to the existing regulations, if an affected source owner or operator elects to comply with the percent reduction emission limitation, an initial performance test must be conducted to determine the capture and control efficiencies of the equipment and to establish the operating limits to be achieved on a continuous basis. Performance tests are to be conducted under representative operating conditions, and the source is required to document the operating conditions during the test and explain why the conditions represent normal operation. In discussions prior to our May 2019 proposal, industry stakeholders raised the issue that, for facilities with multiple test cells/stands, it is difficult to define ''normal'' operation due to the several types of engine tests conducted, the varying operation conditions for the engine tests, the number of cells/stands, different kinds of test fuels, and the complex emission capture system. Thus, affected sources have felt the need to request approval on the testing protocol prior to conducting the performance tests to limit tests to representative cells. We requested comment on whether this process of requesting prior approval for determining what is considered ''normal'' operation for a specific affected facility is reasonable and appropriate for the one-time required performance test. More information concerning our request for comment on this aspect of initial performance testing can be found in the proposed rule (84 FR 20208, May 8, 2019).

2. How did the performance testing issue change for the Engine Test Cells/Stands source category?

Since proposal, this issue has not changed.

3. What key comments did we receive on the performance testing issue, and what are our responses?

One commenter commented more broadly on the issue of performance testing.

Comment: One commenter recommended that the EPA streamline requirements calling for Agency approval of alternate testing protocols and monitoring. The commenter said that this requirement creates unnecessary compliance complexity for facilities with multiple test cells and further stated that it was difficult to comply with this requirement when determining the capture efficiency for a cell that is not a permanent total enclosure (PTE), which is the case for cells in large complexes. The commenter said that in situations where there are temporary total enclosures (TTE), demonstrating TTE as defined by EPA Method 204 is challenging because of the size and set-up at a large facility (*e.g.,* approximately 90 cells). The gas-to-gas protocol, the commenter said, is not practical to implement due to the size and complexity of multiple cells within a large complex. The TTE requirements cannot be met as prescribed because:

- The test method requires the construction of a TTE over all of the test cells in order to measure emissions at exhaust points from the test cell building. With many cells and the volume of air flow involved, construction of a TTE is impossible because the temporary structure would be the size of a large building.
- Measuring all of the emission points from a test cell building at one location is not practical as this would require simultaneous testing at one location of exhaust volume and THC concentration from over 100 locations (90+ general ventilation exhaust points, scavenge air exhaust points systems, emission analyzer vents, and regenerative thermal oxidizers).
- The low CO volume generated from scavenge air and air handling units associated with the general ventilation system can be difficult to measure accurately and background CO levels can interfere with obtaining accurate

[6] U.S. EPA. *Final Plan for Periodic Retrospective Reviews,* August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[7] *E-Reporting Policy Statement for EPA Regulations,* September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[8] *Digital Government: Building a 21st Century Platform to Better Serve the American People,* May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

measurements for determining capture efficiency in testing TTE.

- Approval is needed to limit tests to ''representative'' cells. From a practical perspective, the absence of a definition of what is representative (*e.g.,* test type, common engine type, common fuel, CO measurement methods) results in delayed approvals from regulatory authorities as there is no defined basis for approval.
- Other TTE EPA Method 204 issues include:
  - A source must request alternative approval to deviate from EPA Method 204 requirements to use a single analyzer. The rule does not address the ability to use various calibration gases based on concentration ranges for several capture points.
  - Current rule excludes an allowance for measuring CO instead of VOC or THC, triggering the need for regulatory authority approval to measure CO. In most cases, VOC is too low of a concentration to measure from test cell operations.
  - When testing capture efficiency, an entity must lock room air handling system in place in order to accurately measure air flow from this source and generate valid data. This can trigger changes in ambient conditions for the engine test.

To address these issues, the commenter recommended the EPA should:

1. *Step 1:* Define 100-percent capture to exclude general ventilation, scavenge air systems, and test bench emissions. Based on testing experience and data, these sources represent less than 1 percent of the emissions.
   - Due to the size, number, and configuration of test cells, it is difficult to determine capture efficiency and meet the TTE requirements.
   - Alternatively, the EPA could establish a default capture rate for the *de minimis* emissions to avoid facilities having to undertake costly testing when the capture is known to be nearly complete.
2. *Step 2:* If a PTE cannot be met and the gas-to-gas protocol and TTE requirements are triggered:
   - Allow for a representative test and include a definition describing the requirements for representative test conditions in order to measure CO from various points from the enclosure. This would include testing a representative test cycle (*e.g.,* durability) on a single common engine/fuel type.
   - Modify requirements to allow for multiple analyzers with different measurement spans.
   - If testing of capture efficiency must be conducted, the test method should allow for the locking of the room air handling system. This is not considered normal operation but is necessary because facilities cannot accurately measure air flow when the system is in a constant state of adjusting.
   - Allow measurement of CO, not just THC or HAP.

Response: The EPA is not amending the test procedures and protocols required by this subpart at this time. The EPA also notes that the ability to use either alternative methods or deviations of methods may be pursued on a case by case basis through the site-specific test plan and the alternative method procedures of 40 CFR 63.7(e)(2). Sources may also request approval of a broadly applicable alternative test method through the EPA Measurement Technology Group.

4. What is the rationale for our final approach for the performance testing issue?

The EPA evaluated all of the comments on the EPA's proposed changes regarding initial performance testing. For the reasons explained previously, we determined that no changes should be made to current practice. Although affected sources may still request approval on the testing protocol, this practice will continue to not be required.

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

A. What are the affected facilities?

There are currently 59 engine test cells/stands facilities operating in the United States that conduct engine testing operations and are subject to the Engine Test Cells/Stands NESHAP. The 40 CFR part 63, subpart PPPPP, affected source is the collection of all equipment and activities associated with engine test cells/stands used for testing uninstalled stationary or uninstalled mobile engines located at a major source of HAP emissions. A new or reconstructed affected source is a completely new engine testing source that commenced construction after May 14, 2002, or meets the definition of reconstruction and commenced reconstruction after May 14, 2002.

B. What are the air quality impacts?

At the current level of control, emissions of total HAP from the source category are estimated to be approximately 163 tpy. This represents a reduction in HAP emissions of about 80 tpy due to the current (2003) Engine Test Cells/Stands NESHAP. These final amendments require all affected sources subject to the emission standards in the Engine Test Cells/Stands NESHAP to operate without the SSM exemption. We do not expect that eliminating the SSM exemption will result in reduced emissions since the existing NESHAP requires that the operating limits established during the performance test for demonstrating continuous compliance must be met at all times.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*i.e.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. The EPA expects no secondary air emissions impacts or energy impacts from this rulemaking.

C. What are the cost impacts?

The EPA estimates that each facility in the source category will experience costs as a result of the final amendments. These costs are estimated as part of the reporting and recordkeeping costs of the final rule. Each facility will experience costs to read and understand the rule amendments. The total cost for this activity is estimated to be $4,029 annually, inclusive of all affected entities. Facilities will also experience costs associated with the elimination of the SSM exemption (including labor hours required for re-evaluation of previously developed SSM record systems), and costs associated with the requirement to electronically submit performance test, performance evaluation, and semi-annual compliance reports using CEDRI (including labor hours needed to become familiar with CEDRI and the reporting template for semi-annual compliance reports). There costs were also estimated as part of the reporting and recordkeeping costs of the rule amendments, however, we do not expect any net change in cost to result from elimination of the SSM exemption or the addition of the electronic reporting requirements. Therefore, the total estimated cost of this action, beyond the costs that would have been incurred by industry pursuant to the regulations in effect prior to this final rule, is $4,029 annually.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs associated with a

rule and the distribution of those costs among affected facilities can have a role in determining how the market will change in response to the rule. As presented in section VI.C of this preamble, the total estimated cost of this final rule is approximately $4,029 annually. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

The EPA is not finalizing changes to the emission limit requirements and estimates the proposed changes to SSM, recordkeeping, reporting, and monitoring are not economically significant. Because these final amendments are not considered economically significant, as defined by Executive Order 12866, and because no emission reductions were estimated, we did not estimate any benefits from reducing emissions.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, the EPA performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Engine Test Cells/Stands source category across different demographic groups within the populations living near facilities.[9]

The results of the demographic analysis are summarized in Table 3 below. These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

TABLE 3—ENGINE TEST CELLS/STANDS DEMOGRAPHIC RISK ANALYSIS RESULTS

[Engine Test Cells/Stands source category: Demographic assessment results—50 km study area radius]

		Population with cancer risk greater than or equal to 1 in 1 million	Population with HI greater than 1
	Nationwide	Source category	
Total Population	317,746,049	2,745	0
	White and minority by percent		
White	62	90	0
Minority	38	10	0
	Minority by percent		
African American	12	3	0
Native American	0.8	0.4	0
Hispanic or Latino (includes white and nonwhite)	18	2	0
Other and Multiracial	7	4	0
	Income by percent		
Below Poverty Level	14	13	0
Above Poverty Level	86	87	0
	Education by percent		
Over 25 and without a High School Diploma	14	9	0
Over 25 and with a High School Diploma	86	91	0
	Linguistically isolated by percent		
Linguistically Isolated	6	2	0

The results of the Engine Test Cells/Stands source category demographic analysis indicate that emissions from the source category expose approximately 2,700 people to a cancer risk at or above 1-in-1 million and no people to a chronic noncancer TOSHI greater than 1 based on actual or allowable emissions. Regarding cancer risk, the specific demographic results indicate that the percentage of the population potentially impacted by engine test cells/stands emissions is greater than its corresponding nationwide percentage for the following demographics: White (90 percent for the source category compared to 62 percent nationwide), Above Poverty Level (87

[9] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living two times the poverty level, and linguistically isolated people.

percent for the source category compared to 86 percent nationwide), and Over 25 and with a High School Diploma (91 percent for the source category compared to 86 percent nationwide). The remaining demographic group percentages (including the groups explicitly designated as minority) are the same or less than the corresponding nationwide percentages.

The EPA, therefore, reaffirms its determination that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations because it maintains the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income, or indigenous populations.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review Analysis of Demographic Factors for Populations Living Near Engine Test Cells/Stands Source Category Operations,* available in the docket for this action.

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

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the document, *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this action.

VI. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2066.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing changes to the reporting and recordkeeping requirements for the Engine Test Cells/Stands NESHAP in the form of eliminating the SSM reporting and SSM plan requirements and requiring electronic submittal of all compliance reports (including performance test reports). Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

Respondents/affected entities: Respondents are owners or operators of engine test cells/stands facilities subject to the Engine Test Cells/Standards NESHAP.

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

Estimated number of respondents: On average, over the next 3 years, approximately 12 existing major sources will be subject to these standards, of which seven are subject to emission limits, monitoring, recordkeeping, and reporting requirements. It is also estimated that one additional respondent will become subject to the emission standards over the 3-year period and two additional respondents will be subject only to the notification requirements.

Frequency of response: On average, this collection is expected to produce 18 responses per year.

Total estimated burden: 1,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $4,029 (per year), which is inclusive of the cost of familiarization with regulatory requirements, plus $2,900 annualized capital or operation and maintenance costs. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. During the original rulemaking, an ICR was sent to over 100 companies representing over 300 individual facilities. Using that information, along with discussion with industry stakeholders, it was determined that there were no major sources that were also owned by small entities. A review of the 59 facilities currently in this source category also concluded that none are owned by small entities. Thus, this action will not impose any requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. The EPA does not know of any engine test cell/stand facilities owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III and IV of the proposal preamble (84 FR 20208, May 8, 2019) and further documented in the risk report titled *Residual Risk Assessment for the Engine Test Cells/Stands Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which is available in the docket for this action.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

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

The documentation for this decision is contained in section IV.B of the proposal preamble (84 FR 20208, May 8, 2019), section IV.A of this preamble, and the technical report, *Risk and Technology Review Analysis of Demographic Factors for Populations Living Near Engine Test Cells/Stands Source Category Operations,* which is available in the docket for this rulemaking.

L. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Engine test cells/stands, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 11, 2020.

Andrew R. Wheeler,

Administrator.

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

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

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

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

Subpart PPPPP—National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands

■ 2. Section 63.9295 is amended by revising paragraph (a) to read as follows:

§ 63.9295 When do I have to comply with this subpart?

(a) *Affected sources.* (1) If you start up your new or reconstructed affected source before May 27, 2003, you must comply with the emission limitations in this subpart no later than May 27, 2003; except that the compliance date for the requirements promulgated at §§ 63.9295, 63.9305, 63.9340, 63.9350, 63.9355, 63.9375, and Table 7 of 40 CFR part 63, subpart PPPPP, revised on June 3, 2020 is December 1, 2020.

(2) If you start up your new or reconstructed affected source on or after May 27, 2003, you must comply with the emission limitations in this subpart upon startup; except that if the initial startup of your new or reconstructed affected source occurs after May 27, 2003, but on or before May 8, 2019, the compliance date for the requirements promulgated at §§ 63.9295, 63.9305, 63.9340, 63.9350, 63.9355, 63.9375, and Table 7 of this subpart as revised on June 3, 2020 is December 1, 2020.

(3) If the initial startup of your new or reconstructed affected source occurs after May 8, 2019, the compliance date is June 3, 2020 or the date of startup, whichever is later.

* * * * *

■ 3. Section 63.9305 is revised to read as follows:

§ 63.9305 What are my general requirements for complying with this subpart?

(a) Prior to December 1, 2020, you must be in compliance with the emission limitation that applies to you at all times, except during periods of startup, shutdown, or malfunction (SSM) of your control device or associated monitoring equipment. On and after December 1, 2020, you must be in compliance with the applicable emission limitation at all times.

(b) If you must comply with the emission limitation, you must operate and maintain your engine test cell/stand, air pollution control equipment, and monitoring equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions at all times. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that 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 affected source.

(c) For affected sources prior to December 1, 2020, you must develop a written SSM plan (SSMP) for emission control devices and associated monitoring equipment according to the provisions in § 63.6(e)(3). The plan will apply only to emission control devices, and not to engine test cells/stands.

■ 4. Section 63.9307 is amended by revising paragraphs (c)(1), (2), and (4) to read as follows:

§ 63.9307 What are my continuous emissions monitoring system installation, operation, and maintenance requirements?

* * * * *

(c) * * *

(1) You must install, operate, and maintain each CEMS according to the applicable Performance Specification (PS) of 40 CFR part 60, appendix B (PS–3, PS–4A, or PS–8).

(2) You must conduct a performance evaluation of each CEMS according to the requirements in 40 CFR 63.8 and according to PS–3 of 40 CFR part 60, appendix B, using Reference Method 3A or 3B for the O_2 CEMS, and according to PS–4A of 40 CFR part 60, appendix B, using Reference Method 10 or 10B for the CO CEMS, and according to PS–8 of CFR part 60, appendix B, using Reference Method 25A for the THC CEMS. If the fuel used in the engines being tested is natural gas, you may use ASTM D 6522–00, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide and Oxygen Concentrations in Emissions from

Natural Gas Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers (incorporated by reference, see § 63.14). As an alternative to Method 3B, you may use ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus],'' (incorporated by reference, see § 63.14).

* * * * *

(4) All CEMS data must be reduced as specified in § 63.8(g)(2) and recorded as CO or THC as carbon concentration in parts per million by volume, dry basis (ppmvd), corrected to 15 percent O_2 content.

* * * * *

■ 5. Section 63.9320 is amended by revising paragraphs (b) and (c) to read as follows:

§ 63.9320 What procedures must I use?

* * * * *

(b) You must conduct an initial performance evaluation of each capture and control system according to §§ 63.9321, 63.9322, 63.9323 and 63.9324, and each CEMS according to the requirements in 40 CFR 63.8 and according to the applicable Performance Specification of 40 CFR part 60, appendix B (PS–3, PS–4A, or PS–8).

(c) The initial demonstration of compliance with the carbon monoxide (CO) or THC concentration limitation consists of either the first 4-hour rolling average CO or THC concentration recorded after completion of the CEMS performance evaluation if CEMS are installed or the average of the test run averages during the initial performance test. You must correct the CO or THC concentration at the outlet of the engine test cell/stand or the emission control device to a dry basis and to 15 percent O_2 content according to Equation 1 of this section:

$$C_c = C_{unc} \left[\frac{5.9}{(20.9 - \%O2d)}\right]$$

Where:

C_c = concentration of CO or THC, corrected to 15 percent oxygen, ppmvd

C_{unc} = total uncorrected concentration of CO or THC, ppmvd

$\%O_{2d}$ = concentration of oxygen measured in gas stream, dry basis, percent by volume

* * * * *

■ 6. Section 63.9321 is amended by revising paragraph (a) introductory text to read as follows:

§ 63.9321 What are the general requirements for performance tests?

(a) You must conduct each performance test required by § 63.9310 under the conditions in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h). Prior to December 1, 2020, the performance test must also be conducted according to the requirements in § 63.7(e)(1).

* * * * *

■ 7. Section 63.9330 is amended by revising paragraph (a) to read as follows:

§ 63.9330 How do I demonstrate initial compliance with the emission limitation?

(a) You must demonstrate initial compliance with the emission limitation that applies to you according to Table 4 to this subpart.

* * * * *

■ 8. Section 63.9340 is amended by revising paragraph (c) to read as follows:

§ 63.9340 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(c) Startups, shutdowns, and malfunctions:

(1) For affected sources prior to December 1, 2020, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of SSM of control devices and associated monitoring equipment are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1).

(2) The Administrator will determine whether deviations that occur during a period you identify as an SSM of control devices and associated monitoring equipment are violations, according to the provisions in § 63.6(e).

■ 9. Section 63.9350 is amended by:
■ a. Revising paragraph (a)(6) and;
■ b. Adding paragraph (a)(7);
■ c. Revising paragraph (c) introductory text;
■ d. Adding paragraph (c)(5);
■ e. Revising paragraph (d) introductory text;
■ f. Adding paragraph (d)(11);
■ g. Revising paragraph (e); and
■ h. Adding paragraphs (f) through (i).

The revisions and additions read as follows:

§ 63.9350 What reports must I submit and when?

(a) * * *

(6) For affected sources prior to December 1, 2020, if you had an SSM of a control device or associated monitoring equipment during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in paragraphs § 63.10(d)(5)(i).

(7) Beginning on December 1, 2020, submit all semiannual compliance reports following the procedure specified in paragraph (g) of this section.

* * * * *

(c) For each deviation from an emission limit, the semiannual compliance report must include the information in paragraphs (b)(1) through (3) of this section and the information included in paragraphs (c)(1) through (4) of this section, except that on and after December 1, 2020 the semiannual compliance report must also include the information included in paragraph (c)(5) of this section.

* * * * *

(5) An estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(d) For each CEMS or CPMS deviation, the semiannual compliance report must include the information in paragraphs (b)(1) through (3) of this section and the information included in paragraphs (d)(1) through (10) of this section, except that on and after December 1, 2020, the semiannual compliance report must also include the information included in paragraph (d)(11) of this section.

* * * * *

(11) The total operating time of each new or reconstructed engine test cell/stand during the reporting period.

(e) Prior to December 1, 2020, if you had an SSM of a control device or associated monitoring equipment during the semiannual reporting period that was not consistent with your SSMP, you must submit an immediate SSM report according to the requirements in § 63.10(d)(5)(ii).

(f) Within 60 days after the date of completing each performance test or performance evaluation required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section.

(1) Data collected or performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test. Submit the results of the performance test or performance evaluation to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT.

Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) Data collected or performance evaluations of CMS measuring RATA pollutants using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test. The results of the performance test or performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) If you claim some of the information submitted under paragraph (f) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (f)(1) of this section.

(g) If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

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

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occured within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(i) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majuere, you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 10. Section 63.9355 is amended by:
■ a. Revising paragraphs (a) introductory text and (a)(3);
■ b. Adding paragraphs (a)(6) through (8);
■ c. Revising paragraphs (b)(2), (c) introductory text, and (c)(2) and (4); and
■ d. Adding paragraph (c)(5).

The revisions and additions read as follows:

§ 63.9355 What records must I keep?

(a) You must keep the records as described in paragraphs (a)(1) through (5) of this section. After June 3, 2020, you must also keep the records as described in paragraphs (a)(6) through (8) of this section.

* * * * *

(3) Records of the occurrence and duration of each malfunction of the air pollution control equipment, if applicable, as required in § 63.9355.

* * * * *

(6) In the event that an affected unit fails to meet an applicable standard,

record the number of failures. For each failure record the date, time, the cause, and duration of each failure.

(7) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(8) Record actions taken to minimize emissions in accordance with § 63.9305, and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(b) * * *

(2) For affected sources prior to December 1, 2020, the records in § 63.6(e)(3)(iii) through (v) related to SSM.

* * * * *

(c) For each CEMS, you must keep the records as described in paragraph (c)(1) through (5) of this section.

* * * * *

(2) Previous (*i.e.,* superceded) versions of the performance evaluation plan as required in paragraph (c)(5) of this section.

* * * * *

(4) For affected sources prior to December 1, 2020, the records in § 63.6(e)(3)(iii) through (v) related to SSM of the control device and associated monitoring equipment.

(5) The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (*i.e.,* superseded) versions of the performance evaluation 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. The program of corrective action should be included in the plan required under § 63.8(d)(2).

* * * * *

■ 11. Section 63.9360 is amended by adding paragraph (d) to read as follows;

§ 63.9360 In what form and how long must I keep my records?

* * * * *

(d) Any records required to be maintained by this part that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 12. Section 63.9375 is amended in the definition of ''Deviation'' by revising paragraph (3) to read as follows:

§ 63.9375 What definitions apply to this subpart?

* * * * *

Deviation * * *

(3) Prior to December 1, 2020, fails to meet any emission limitation or operating limit in this subpart during malfunction, regardless of whether or not such failure is permitted by this subpart.

* * * * *

■ 13. Table 3 to subpart PPPPP is amended by revising the entry ''1. The CO or THC outlet concentration emission limitation'' to read as follows:

TABLE 3 TO SUBPART PPPPP OF PART 63—REQUIREMENTS FOR INITIAL COMPLIANCE DEMONSTRATIONS

*****

For each new or reconstructed affected source complying with . . .	You must . . .	Using . . .	According to the following requirements . . .
1. The CO or THC outlet concentration emission limitation.	a. Demonstrate CO or THC emissions are 20 ppmvd or less.	i. EPA Methods 3A and 10 of appendix A to 40 CFR part 60 for CO measurement or EPA Method 25A of appendix A to 40 CFR part 60 for THC measurement; or	You must demonstrate that the outlet concentration of CO or THC emissions from the test cell/stand or emission control device is 20 ppmvd or less, corrected to 15 percent O_2 content, using the average of the test runs in the performance test.
		ii. A CEMS for CO or THC and O_2 at the outlet of the engine test cell/stand or emission control device.	This demonstration is conducted immediately following a successful performance evaluation of the CEMS as required in § 63.9320 (b). The demonstration consists of the first 4-hour rolling average of measurements. The CO or THC concentration must be corrected to 15 percent O_2 content, dry basis using Equation 1 in § 63.9320.
*	*	*	* * * *

■ 14. Table 4 of subpart PPPPP is revised to read as follows:

TABLE 4 TO SUBPART PPPPP OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

[As stated in § 63.9330, you must demonstrate initial compliance with each emission limitation that applies to you according to the following table:]

For the . . .	You have demonstrated initial compliance if . . .
1. CO or THC concentration emission limitation.	The first 4-hour rolling average CO or THC concentration is 20 ppmvd or less, corrected to 15 percent O_2 content if CEMS are installed or the average of the test run averages during the performance test is 20 ppmvd or less, corrected to 15 percent O_2 content.
2. CO or THC percent reduction emission limitation.	The first 4-hour rolling average reduction in CO or THC is 96 percent or more, dry basis, corrected to 15 percent O_2 content.

■ 15. Table 5 of subpart PPPPP is revised to read as follows:

TABLE 5 TO SUBPART PPPPP OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS

[As stated in § 63.9340, you must demonstrate continuous compliance with each emission limitation that applies to you according to the following table:]

For the . . .	You must . . .	By . . .
1. CO or THC concentration emission limitation.	a. Demonstrate CO or THC emissions are 20 ppmvd or less over each 4- hour rolling averaging period.	i. Collecting the CPMS data according to § 63.9306(a), reducing the measurements to 1-hour averages used to calculate the 3-hr block average; or ii. Collecting the CEMS data according to § 63.9307(a), reducing the measurements to 1-hour averages, correcting them to 15 percent O_2 content, dry basis, according to § 63.9320.
2. CO or THC percent reduction emission limitation.	a. Demonstrate a reduction in CO or THC of 96 percent or more over each 4-hour rolling averaging period.	i. Collecting the CPMS data according to § 63.9306(a), reducing the measurements to 1-hour averages; or ii. Collecting the CEMS data according to § 63.9307(b), reducing the measurements to 1-hour averages, correcting them to 15 percent O_2 content, dry basis, calculating the CO or THC percent reduction according to § 63.9320.

■ 16. Table 7 of subpart PPPPP is revised to read as follows:

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

[As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 15 that apply to you according to the following table:]

Citation	Subject	Applicable to subpart PPPPP	Explanation
§ 63.1(a)(1)–(12) ..	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart PPPPP is also specified in § 63.9285.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart PPPPP.
§ 63.1(c)(5)	Notifications	Yes.	
§ 63.1(d)	[Reserved].		
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.9375.
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities and Circumvention	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d)	Application for Approval of Construction/ Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction ..	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements-Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.9295 specifies the compliance dates.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	No	Subpart PPPPP does not establish standards for existing sources.
§ 63.6(c)(5)	Compliance Dates for Existing Sources	Yes	§ 63.9295(b) specifies the compliance date if a new or reconstructed area source becomes a major source.
§ 63.6(e)(1)(i)	Operation and Maintenance	Yes before December 1, 2020. No on and after December 1, 2020.	See § 63.9305 for general duty requirement.
§ 63.6(e)(1)(ii)	Operation and Maintenance	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.6(e)(1)(iii)	Operation and Maintenance	Yes.	
§ 63.6(e)(3)	SSM Plan	Yes before December 1, 2020. No on and after December 1, 2020.	

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

[As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 15 that apply to you according to the following table:]

Citation	Subject	Applicable to subpart PPPPP	Explanation
§ 63.6(f)(1)	Compliance Except During SSM	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of Alternative Standards	Yes.	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart PPPPP does not establish opacity standards and does require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16)	Extension of Compliance	No	Compliance extension provisions apply to existing sources which do not have emission limitations in subpart PPPPP.
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7(a)(1)–(2)	Performance Test Dates	Yes.	
§ 63.7(a)(3)	Performance Test Required By the Administrator.	Yes.	
§ 63.7(b)–(d)	Performance Test Requirements-Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Testing.	Yes.	
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Yes before December 1, 2020. No, see § 63.9321, on and after December 1, 2020.	
§ 63.7(e)(2)–(4)	Conduct of Performance Tests	Yes.	
§ 63.7(f)	Alternative Test Methods	Yes.	
§ 63.7(g)–(h)	Performance Testing Requirements-Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes.	
§ 63.8(a)(1)–(2)	Monitoring Requirements—Applicability	Yes	Subpart PPPPP contains specific requirement for monitoring at § 63.9325.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart PPPPP does not have monitoring requirement for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)	Continuous Monitoring System (CMS) Operation and Maintenance.	Yes.	
§ 63.8(c)(1)(i)	General Duty to Minimize Emissions and CMS Operation.	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.8(c)(1)(ii)	Operation and Maintenance of CMS	Yes.	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS.	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.8(c)(2)–(3)	Monitoring System Installation	Yes.	
§ 63.8(c)(4)	CMS	No	§ 63.9335(a) and (b) specifies the requirements.
§ 63.8(c)(5)	COMS	No	Subpart PPPPP does not have opacity or VE standards.
§ 63.8(c)(6)–(8)	CMS Requirements	Yes	Except that subpart PPPPP does not require COMS.
§ 63.8(d)(1)–(2)	CMS Quality Control	Yes.	
§ 63.8(d)(3)	CMS Quality Control	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.8(e)	CMS Performance	Yes	Except for § 63.8(e)(5)(ii) which applies to COMS.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Yes.	
§ 63.8(g)	Data Reduction	Yes before December 1, 2020. No on and after December 1, 2020.	§§ 63.9335 and 63.9340 specify monitoring data reduction.
§ 63.9(a)–(b)	Notification Requirements	Yes.	
§ 63.9(c)	Request for Compliance Extension	No	Compliance extension to not apply to new or reconstructed sources.
§ 63.9(d)	Notification of Special Compliance Requirements for New Sources.	Yes.	
§ 63.9(e)	Notification of Performance Test	No	Subpart PPPPP does not require performance testing.
§ 63.9(f)	Notification of Opacity/VE test	No	Subpart PPPPP does not have opacity/VE standards.
§ 63.9(g)(1)	Additional Notifications When Using CMS	Yes.	

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

[As stated in 63.9365, you must comply with the General Provisions in §§ 63.1 through 15 that apply to you according to the following table:]

Citation	Subject	Applicable to subpart PPPPP	Explanation
§ 63.9(g)(2)	Additional Notifications When Using CMS	No	Subpart PPPPP does not have opacity/VE standards.
§ 63.9(g)(3)	Additional Notifications When Using CMS	Yes.	
§ 63.9(h)	Notification of Compliance Status	Yes.	
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes.	
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.10(b)(2)(ii)	Recordkeeping of Occurrence and Duration of Malfunctions.	Yes before December 1, 2020. No on and after December 1, 2020.	See § 63.9355 for recordkeeping of (1) date, time, and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Recordkeeping of Maintenance on Controls and Monitoring Equipment.	Yes.	
§ 63.10(b)(2)(iv)–(v).	Actions Taken to Minimize Emissions During SSM.	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.10(b)(2)(vi)–(xi).	CMS Records	Yes.	
§ 63.10(b)(2)(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)	Records	Yes.	
§ 63.10(b)(2)(xiv)	Records	Yes.	
§ 63.10(b)(3)	Recordkeeping for Applicability Determinations.	Yes.	
§ 63.10(c)(1)–(6), (9)–(14).	Additional Recordkeeping for CMS	Yes.	
§ 63.10(c)(7)–(8)	Records of Excess Emissions and Parameter Monitoring Exceedances for CMS.	No	Specific language is located at § 63.9355 of subpart PPPPP.
§ 63.10(c)(15)	Records Regarding the SSM Plan	Yes before December 1, 2020. No on and after December 1, 2020.	
§ 63.10(d)(1)	General Reporting Requirements	Yes.	
§ 63.10(d)(2)	Report of Performance Test Results	Yes.	
§ 63.10(d)(3)	Reporting of Opacity or VE Observations	No	Subpart PPPPP does not have opacity/VE standards.
§ 63.10(d)(4)	Progress Reports for Sources with Compliance Extensions.	No	Compliance extensions do not apply to new or reconstructed sources.
§ 63.10(d)(5)	SSM Reports	Yes before December 1, 2020. No on and after December 1, 2020.	On and after December 1, 2020, see § 63.9350 for malfunction reporting requirements.
§ 63.10(e)(1) and (2)(i).	Additional CMS Reports	Yes.	
§ 63.10(e)(2)(ii)	Additional CMS Reports	No	Subpart PPPPP does not require COMS.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Specific language in located in § 63.9350 of subpart PPPPP.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart PPPPP does not require COMS.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Yes.	
§ 63.11	Control Device Requirements/Flares	No	Subpart PPPPP does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes	ASTM D 6522–00 and ANSI/ASME PTC 19.10–1981 (incorporated by reference—See § 63.14).
§ 63.15	Availability of Information/Confidentiality	Yes.	

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