

The EPA Administrator, E. Scott Pruitt, signed the following notice on 7/27/2017, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDSys website (<http://gpo.gov/fdsys/search/home.action>) and on Regulations.gov (<http://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2012-0360. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2012-0360, FRL-9965-18-OAR]

RIN 2060-AT48

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (OSWRO). The proposed amendments address an issue related to monitoring pressure relief devices (PRDs) on containers. This issue was raised in a petition for reconsideration of the amendments to the OSWRO NESHAP finalized in 2015 based on the residual risk and technology review (RTR). Among other things, the 2015 amendments established additional monitoring requirements for all PRDs, including PRDs on containers. For PRDs on containers, these monitoring requirements were in addition to the inspection and monitoring requirements for containers and their closure devices, which include PRDs that were already required by the OSWRO NESHAP. This proposed action would remove the additional monitoring requirements for PRDs on containers that resulted from the 2015 amendments because we have determined that they are not necessary. This action, if finalized as proposed, would not substantially change the level of environmental protection provided under the OSWRO NESHAP. The proposed amendments would reduce

capital costs related to compliance to this industry by \$28 million compared to the current rule. Total annualized costs, at an interest rate of 7 percent, would be reduced by \$4.2 million per year. These costs are associated with a present value of \$39 million dollars, discounted at 7 percent over 15 years.

DATES: Comments. Comments must be received on or before **[INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

Public Hearing. If a public hearing is requested by **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, then we will hold a public hearing on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** at EPA Headquarters, William Jefferson Clinton East Building, 1201 Constitution Avenue NW, Washington, DC 20004. If a public hearing is requested, then we will provide details about the public hearing on our Web site at: <https://www.epa.gov/stationary-sources-air-pollution/site-waste-and-recovery-operations-oswro-national-emission>. The EPA does not intend to publish another notice in the **Federal Register** announcing any updates on the request for a public hearing. Please contact Ms. Virginia Hunt at (919) 541-0832 or by email at hunt.virginia@epa.gov to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held. The last day to pre-register in advance to speak at the public hearing will be **[INSERT DATE 13 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2012-0360 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <http://www.regulations.gov>. The U.S. Environmental Protection Agency (EPA) may publish any

comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, please contact Ms. Angie Carey, Sector Policies and Programs Division (E143-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2187; fax number: (919) 541-0246; email address: carey.angela@epa.gov. For information about the applicability of the NESHAP to a particular entity, contact Ms. Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building, Mail Code 2227A, 1200 Pennsylvania Avenue, NW, Washington DC 20460; telephone number: (202) 564-7042; fax number: (202) 564-0050; and email address: mia.marcia@epa.gov.

SUPPLEMENTARY INFORMATION:

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2012-0360. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, 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. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2012-0360. The EPA's policy is that all comments received will be included in the public docket without change and will be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2012-0360. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information you claim as CBI. In addition to one complete version of the comment that includes information claimed as CBI, you must submit a copy of the comment that does not contain the information claimed as CBI for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in the Code of Federal Regulations (CFR) at 40 CFR part 2.

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

Preamble Acronyms and Abbreviations. Multiple acronyms and terms are used 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:

ACC	American Chemistry Council
CAA	Clean Air Act
CBI	Confidential Business Information
CFR	Code of Federal Regulations
DOT	Department of Transportation
EPA	Environmental Protection Agency
ETC	Environmental Technology Council
FR	Federal Register
HAP	Hazardous air pollutants
MACT	Maximum achievable control technology
NESHAP	National emissions standards for hazardous air pollutants
OAQPS	Office of Air Quality Planning and Standards
OMB	Office of Management and Budget
OSWRO	Off-site waste and recovery operations
PRD	Pressure relief device
RCRA	Resource Conservation and Recovery Act

RTR	Residual risk and technology review
TSDF	Treatment, storage and disposal facilities

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

I. General Information

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

II. Background

III. Proposed Revisions to PRD Requirements

IV. Summary of Cost, Environmental, and Economic Impacts

- A. What are the affected sources?
- B. What are the air quality impacts?
- C. What are the cost impacts?
- D. What are the economic impacts?
- E. What are the benefits?

V. Statutory and Executive Order Reviews

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act (NTTAA)
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

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

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

B. Does this action apply to me?

Categories and entities potentially regulated by this action include, but are not limited to, businesses or government agencies that operate any of the following: hazardous waste treatment, treatment storage and disposal facilities (TSDF); Resource Conservation and Recovery Act (RCRA) exempt hazardous wastewater treatment facilities; nonhazardous wastewater treatment facilities other than publicly-owned treatment works; used solvent recovery plants; RCRA exempt hazardous waste recycling operations; and used oil re-refineries.

To determine whether your facility is affected, you should examine the applicability criteria in 40 CFR 63.680 of subpart DD. If you have any questions regarding the applicability of any aspect of these NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

In addition to being available in the docket, an electronic copy of this action is available on the Internet. A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2012-0360). Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/stationary-sources-air-pollution/site-waste-and-recovery-operations-oswro-national-emission>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposed action at this same Web site. Other key technical documents related to this proposal will be available in the docket when the **Federal Register** version of the proposal is posted to the docket. Only the version as published in the **Federal Register** will represent the official EPA proposal.

II. Background

On March 18, 2015, the EPA promulgated a final rule amending the OSWRO NESHAP based on the RTR conducted for the OSWRO source category (80 FR 14248). In that final rule, the EPA amended the OSWRO NESHAP to revise provisions related to emissions during periods of startup, shutdown, and malfunction; to add requirements for electronic reporting of performance testing; to add monitoring requirements for PRDs; to revise routine maintenance provisions; to clarify provisions for open-ended valves and lines and for some performance test methods and procedures; and to make several minor clarifications and corrections. After publication of the final rule, the EPA received a petition for reconsideration submitted jointly by Eastman Chemical Company and the American Chemical Council (ACC) (dated May 18, 2015). This petition sought reconsideration of two of the amended provisions of the OSWRO NESHAP: (1) the equipment leak provisions for connectors, and (2) the requirement to monitor PRDs on containers. The EPA considered the petition and supporting information along with information contained in the OSWRO NESHAP amendment rulemaking docket (Docket ID No. EPA-HQ-OAR-2012-0360) in reaching a decision on the petition. The Agency granted reconsideration of the PRD monitoring requirement in letters to the petitioners dated February 8, 2016. In separate letters to the petitioners dated May 5, 2016, the Administrator denied reconsideration of the equipment leak provisions for connectors and explained the reasons for the denial in these letters. These letters are available in the OSWRO NESHAP amendment rulemaking docket. The EPA also published a **Federal Register** notice on May 16, 2016 (81 FR 30182), informing the public of these responses to the petition. On May 18, 2015, ACC filed a petition for judicial review of

the OSWRO NESHAP RTR¹ challenging numerous provisions in the final rule, including the issues identified in the petition for administrative reconsideration. In 2016, the EPA and ACC reached an agreement to resolve that case. Specifically, the parties agreed to a settlement under which ACC agrees to dismiss its petition for review of the 2015 final rule if the EPA completes its reconsideration of certain PRD provisions in accordance with an agreed-upon schedule.²

As a result of our reconsideration, the Agency is proposing revised monitoring requirements for PRDs on containers. The EPA is requesting public comments on these proposed revisions.

III. Proposed Revisions to PRD Requirements

In October 2016, two industry trade groups, ACC and the Environmental Technology Council (ETC), gathered and provided the EPA with data related to stationary process PRDs and PRDs on containers for 19 facilities owned by eight companies. The provided data cover calendar years 2013 – 2015 and include general PRD information, such as the number of PRDs at the facility, the PRDs' set pressure, and the type of equipment the PRDs are on (*i.e.*, stationary equipment or containers). For containers, additional information was provided, including the type and size of the container and the average length of time the containers are onsite before they are emptied. The data also include PRD release information, such as the number of release events that occurred from 2013 – 2015 and the quantity of emissions from each release event. The companies also identified methods employed to monitor PRD releases, to prevent and control PRD releases, and the perceived effectiveness of these methods. Other data were also

¹ United States Court of Appeals for the District of Columbia Circuit, Case Number 15-1146. Eastman Chemical Company also filed a petition for judicial review of the OSWRO NESHAP RTR, but sought and was granted voluntary dismissal in September 2016.

² In accordance with section 113(g) of the CAA (42 U.S.C. § 7413(g)), the EPA provided notice and the opportunity for comment on the settlement by publishing a notice in the **Federal Register** on December 19, 2016 (81 FR 91931). The settlement agreement was finalized on June 15, 2017.

This document is a prepublication version, signed by EPA Administrator, E. Scott Pruitt on 7/27/2017. We have taken steps to ensure the accuracy of this version, but it is not the official version.

provided about the costs to control PRD releases, the impact of force majeure events on PRD releases, types of root cause analyses conducted after a PRD release occurs, PRD inspection frequency, and existing regulations that currently apply to PRDs at OSWRO facilities. The data provided to the EPA by ACC and ETC are available in the docket for this action.

The March 18, 2015, final amendments to the OSWRO NESHAP include requirements for facilities to monitor PRDs, and since the rule does not distinguish between PRDs on stationary process equipment and those on containers, the monitoring requirements apply to all PRDs. The rule requires a monitoring system capable of: (1) identifying a pressure release, (2) recording the time and duration of each pressure release, and (3) immediately notifying operators that a pressure release is occurring. Containers used in OSWRO operations include small containers, such as pressurized cylinders and 55-gallon drums, and large containers, such as railcars and over-the-road tanker vehicles. The petition for reconsideration identified concerns regarding the monitoring requirements as they pertain to PRDs on containers and stated that, because containers are frequently moved around the facility and are received from many different off-site locations, it would be difficult, if not impossible, to design and implement a monitoring system for containers that would meet the 2015 rule requirements.

In reevaluating the PRD monitoring requirements in the 2015 rule as they pertain to containers, we considered what other requirements pertain to these containers and the PRDs on them and the data submitted by ACC and ETC. First, we reviewed the OSWRO NESHAP requirements for containers at 40 CFR 63.688. Depending on the size of the container, the vapor pressure of the container contents, and how the container is used (*i.e.*, for temporary storage and/or transport of the material versus waste stabilization), the rule requires the OSWRO owners and operators to follow the requirements for either Container Level 1, 2, or 3 control

requirements as specified in the Container NESHAP at 40 CFR part 63, subpart PP. Each control level specifies requirements to ensure the integrity of the container and its ability to contain its contents (*e.g.*, requirements to meet U.S. Department of Transportation (DOT) regulations on packaging hazardous materials for transportation, or vapor tightness as determined by EPA Method 21, or no detectable leaks as determined by EPA Method 27); requirements for covers and closure devices (which include pressure relief valves as that term is defined in the Container NESHAP at 40 CFR 63.921); and inspection and monitoring requirements for containers and their covers and closure devices pursuant to the Container NESHAP at 40 CFR 63.926. The inspection and monitoring requirements for containers at 40 CFR 63.926, which are already incorporated into the OSWRO NESHAP by 40 CFR 63.688, require that unless the container is emptied within 24 hours of its receipt at the OSWRO facility, the OSWRO owner/operator is required on or before they sign the shipping manifest accepting a container to visually inspect the container and its cover and closure devices (which include PRDs). If a defect of the container, cover, or closure device is identified, the Container NESHAP specify the time period within which the container must be either emptied or repaired. The Container NESHAP require subsequent annual inspection of the container, its cover, and closure devices in the case where a container remains at the facility and has been unopened for a period of 1 year or more.

Therefore, the PRD continuous monitoring requirements in the 2015 OSWRO NESHAP at 40 CFR 63.691(c)(3)(i) are in addition to PRD monitoring requirements (as closure devices) already in the OSWRO NESHAP per the Container requirements at 40 CFR 63.688, which incorporate the inspection and monitoring requirements of the subpart PP Container NESHAP. In addition, nearly all OSWRO containers are subject to DOT regulatory requirements to ensure their safe design, construction, and operation while in transport. The DOT regulations at 49 CFR part 178,

Specifications for Packagings or 49 CFR part 179, Specifications for Tank Cars, prescribe specific design, manufacturing, and testing requirements for containers that will be transported by motor vehicles. In addition, 49 CFR part 180, Continuing Qualification and Maintenance of Packagings, requires periodic inspections, testing, and repair of containers, which would minimize the chance of an atmospheric release from a PRD.

Second, we reviewed the dataset provided by ACC and ETC for PRDs on containers includes information for 19 facilities. The types of containers identified in this dataset include pressurized cylinders, drums, tote-tanks, cargo tanks, isotainers, railcars, and tank vehicles, and the containers with PRDs onsite at any one time can be zero or several hundred. The data from ACC and ETC show that containers with PRDs can range in size from a few hundred gallons to up to 25,000 gallons for rail cars, with set pressures (*i.e.*, the pressure at which the PRD is designed to open to relieve excess pressure in the container) varying between 2.5 and 100 pounds per square inch. For OSWRO, the information the EPA reviewed shows that containers remain onsite until the contents can be unloaded, which can vary depending on the operational activities at the facility, and based on the data provided by ACC and ETC, is generally less than 2 weeks. In addition, the data reviewed by the EPA indicate that OSWRO containers are constantly changing (*i.e.*, moving in and out of inventory), and they are frequently moved around the site, depending on storage area capacity and the queue for offloading. Due to the transitory nature of these containers, it would be difficult to design and implement a system to monitor each individual container PRD. These facilities had an annual average of 229 containers with PRDs at the facility site for some period of time during the year. The 3 years of data we received show that there was only one PRD on a container that had an emissions release event. The relief event that occurred was while nitrogen pressure was being applied to a tank truck to off-load waste

material. The leak resulted in approximately 40 pounds of volatile organic compounds, of which about 0.4 pounds was an OSWRO NESHAP Table 1, hazardous air pollutant (HAP), over a duration of about 8.5 hours.

Besides this one PRD release event, no other facilities reported a PRD release in the data provided to the EPA. The one reported release was due to pressure being applied to the tank during material off-loading. No facility reported releases that occurred during storage or transport of the container within the facility. All of these facilities are subject to the subpart PP Container NESHAP inspection requirements, as described above, and did not report detecting any PRD releases or defective conditions during these inspections. An open or defective PRD would be detected by the subpart PP inspection requirements. The EPA's understanding, based substantially on its review of the data provided by ACC and ETC, is that PRD releases from containers are rare, the emissions potential from PRDs on these containers is low, and the additional monitoring requirements for PRDs on the containers that would be required under the 2015 OSWRO NESHAP would be difficult. In addition, the costs for the continuous monitoring requirements in the 2015 rule for PRDs on containers would be very high relative to the low emissions potential. See section IV.C of this preamble for a discussion on the projected costs for a facility to comply with the PRD continuous monitoring requirements on containers in the 2015 OSWRO NESHAP.

Based on the above considerations, we have determined that the PRD inspection and monitoring requirements in the Container NESHAP that are already incorporated into the container requirements of the OSWRO NESHAP are effective and sufficient given the high cost and difficulty of conducting continuous monitoring as contemplated by 40 CFR 63.691(c)(3)(i) and the low emissions potential from containers at OSWRO facilities. Therefore, we are

proposing that PRDs on OSWRO containers will not be subject to the monitoring requirements at 40 CFR 63.691(c)(3)(i), and we are soliciting comment on our assessment and proposal regarding these PRD monitoring requirements.

The EPA is also soliciting comment on whether to impose more frequent inspections for any filled or partially-filled OSWRO container that remains onsite longer than 60 days.

Although the data reviewed show that typically most containers are onsite for less than 2 weeks, there may be instances when, due to facility operations, containers remain onsite and filled or partially-filled for a longer period of time. The EPA is soliciting comment on whether a container that remains onsite for a longer period of time should be required to be visually inspected at a set time, and on an established timeframe thereafter, as long as it remains filled, or partially-filled and onsite. Additionally, the EPA is accepting comment on whether any additional inspection requirements should apply to all containers or only apply to larger containers. Finally, the EPA is also accepting comment on whether to also incorporate the RCRA subpart BB (Air Emission Standards for Equipment Leaks) and subpart CC (Air Emission Standards for Tanks, Surface Impoundments, and Containers) of 40 CFR part 264 and 265 inspection requirements for RCRA permitted and interim status facilities, as these weekly inspections could help facilities identify leaking and or deteriorating containers or cover and closure devices and could help identify any PRD leaks. If the EPA incorporates additional inspection or monitoring requirements as outlined above, we are also soliciting comment on whether to require associated recordkeeping and reporting obligations.

We are not proposing any other amendments to the OSWRO NESHAP as it pertains to PRDs on containers. Specifically, we are not proposing to alter the requirement that PRDs on containers not release HAP emissions directly to the atmosphere. If a PRD release occurs as a

result of a defect of the container, cover, or closure device (which includes PRDs), the owner or operator would be subject to the requirements in the Container NESHAP at 40 CFR 63.926(a)(3), as referenced from the OSWRO NESHAP at 63.688, that require emptying of the container or repair within a specified time period. Further, if a PRD fails to re-seat itself, this would also likely be considered a defect in the PRD and, therefore, would be subject to the same requirements in the Container NESHAP at 63.926(a)(3).

We are also not proposing any changes to the requirements for owners and operators to quantify the amount of Table 1 HAP emissions associated with a release from a PRD as those requirements at 40 CFR 63.691(c)(3)(ii) apply to PRDs on containers or to the requirements to report such releases at 63.697(b)(5). We are not proposing changes to these requirements since they allow calculations based on process knowledge, and do not require that calculations be based on monitoring conducted pursuant at 63.691(c)(3)(i).

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

We estimate that 49 existing sources would be affected by the revised monitoring requirements being proposed in this action.

B. What are the air quality impacts?

We are proposing revised requirements for PRD monitoring on containers on the basis that the inspection and monitoring requirements in 40 CFR part 63, subpart PP incorporated into the OSWRO NESHAP are sufficient. We project that the proposed standard would not result in any change in emissions compared to the existing OSWRO NESHAP.

C. What are the cost impacts?

When the OSWRO NESHAP were finalized in 2015, the EPA was not aware of equipment meeting the definition of a PRD on containers in the OSWRO industry, and costs associated with the PRD release event prohibition and monitoring requirements were not estimated for this equipment. Therefore, the capital and annualized costs in the 2015 final rule were underestimated, as these costs were not included. To determine the impacts of the 2015 final rule, considering the monitoring requirements for PRDs on containers based on the data now available to the EPA from ACC and ETC, we have estimated the costs and the potential emission reductions associated with wireless PRD monitors for containers. Using vendor estimates for wireless PRD monitor costs, we estimate that the capital costs per facility with the average number of containers with PRDs would be approximately \$570,000, and the capital costs for the industry (49 facilities) would be approximately \$28 million. The total annualized costs per facility (assuming a 15-year equipment life and a 7- percent interest rate) are estimated to be approximately \$85,000 and approximately \$4.2 million for the industry. Therefore, by removing the requirement to monitor PRDs on containers, we estimate the impact of our proposal to be an annual reduction of \$4.2 million. Cost information, including wireless PRD monitor costs, is available in the docket for this action.

D. What are the economic impacts?

We performed a national economic impact analysis for the 49 OSWRO facilities affected by this proposed rule. The updated national costs under this reconsideration, accounting for the data provided by ACC and the ETC, are \$1.3 million in capital costs in 2018, or \$200,000 in total annualized costs under a 7-percent interest rate (\$170,000 million in total annualized costs

under a 3-percent interest rate).³ After updating the baseline costs of the PRD monitoring requirements as written in the 2015 rule, in consideration of the data provided by ACC and the ETC, this reconsideration constitutes a \$28 million reduction in the capital cost or a \$4.2 million reduction in annualized costs assuming an interest rate of 7-percent (\$3.4 million reduction in annualized costs assuming an interest rate of 3-percent). These costs can be seen in Table 1.

Table 1. Re-estimated Cost and Reconsideration Cost (\$2016, millions)

	Capital Costs	Total Annualized Costs	
		7%	3%
Re-estimated Cost (New Baseline)	29	4.4	3.6
Reconsidered Cost	1.3	0.20	0.17
<i>Burden Reduction</i>	-28	-4.2	-3.4

Note: Estimates rounded to 2 significant figures. Totals may not sum due to rounding.

In terms of the present value of the costs, the reconsidered requirements compared to the re-estimated costs of the promulgated rule (the new baseline) constitute a decrease of \$39 million under a 7-percent discount rate (\$42 million under a 3-percent discount rate). In terms of the equivalent annualized values, this reconsideration constitutes \$4.3 million dollars annually at a 7-percent discount rate (\$3.5 million annually at a 3-percent discount rate) in reduced compliance costs compared to the new baseline estimation.⁴ These values can be seen in Table 2, below.

Table 2. Re-estimated PRD Promulgated Cost and Reconsideration Cost (\$2016, millions)

	Re-estimated Cost (New Baseline)		Reconsidered Cost		Burden Reduction	
	7%	3%	7%	3%	7%	3%
Present Value	\$41	\$44	\$1.9	\$2.0	-\$39	-\$42
Equivalent Annualized Value	\$4.5	\$3.7	\$0.20	\$0.17	-\$4.3	-\$3.5

Note: These values are estimated over 15 years. Totals may not sum due to rounding.

³ We assume affected facilities will start incurring costs in 2018, after the final rule is finalized.

⁴ The equivalent annualized value represents the even flow of the present value of costs over the technical life of the monitors.

This document is a prepublication version, signed by EPA Administrator, E. Scott Pruitt on 7/27/2017. We have taken steps to ensure the accuracy of this version, but it is not the official version.

More information and details of this analysis, including the conclusions stated above, are provided in the technical document, “Economic Impact Analysis for the Proposed Reconsideration of the 2015 NESHAP: Off-Site Waste and Recovery Operations,” which is available in the rulemaking docket.

E. What are the benefits?

We project that the proposed standard would not result in any change in emissions compared to the existing OSWRO NESHAP.

V. Statutory and Executive Order Reviews

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

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 63, subpart DD under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 1717.11. The proposed amendments removed monitoring requirements for PRDs on containers, and these proposed amendments do not affect the estimated information collection burden of the existing rule. You can find a copy of the Information Collection Request in the docket at Docket ID No. EPA-HQ-OAR-2012-0360 for this rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This rule relieves regulatory burden by reducing compliance costs associated with monitoring PRDs on containers. The Agency has determined that of the 28 firms that own the 49 facilities in the OSWRO source category, two firms, or 7 percent, can be classified as small firms. The cost to sales ratio of the reconsidered cost of the monitoring requirements for these two firms is significantly less than 1 percent. In addition, this action constitutes a burden reduction compared to the re-estimated costs of the 2015 rule as promulgated. We have, therefore, concluded that this action does not have a significant impact on a substantial number of small entities. For more information, see the “Economic Impact Analysis for the Proposed Reconsideration of the 2015 NESHAP: Off-Site Waste and Recovery Operations,” which is available in the rulemaking docket.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, tribal governments, or the private sector.

E. Executive Order 13132: Federalism

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

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

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

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

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. The EPA's risk assessments for the 2015 final rule (Docket ID No. EPA-HQ-OAR-2012-0360) demonstrate that the current regulations are associated with an acceptable level of risk and provide an ample margin of safety to protect public health and prevent adverse environmental effects. This proposed action would not alter those conclusions.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

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).

In the 2015 final rule, the EPA determined that the current health risks posed by emissions from this source category are acceptable and provide an ample margin of safety to protect public health and prevent adverse environmental effects. To gain a better understanding of the source category and near source populations, the EPA conducted a proximity analysis for OSWRO facilities prior to proposal in 2014 to identify any overrepresentation of minority, low income, or indigenous populations. This analysis gave an indication of the prevalence of sub-populations that might be exposed to air pollution from the sources. We revised this analysis to include four additional OSWRO facilities that the EPA learned about after proposal for the 2015 rule. The EPA determined that the final rule would not have disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations. The revised proximity analysis results and the details concerning its development are presented in the memorandum titled, *Updated Environmental Justice Review: Off-Site Waste and Recovery Operations RTR*, available in the docket for this action (Docket Document ID No. EPA-HQ-OAR-2012-0360-0109). This proposed action would not alter the conclusions made in the 2015 final rule regarding this analysis.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control,
Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated:_____.

E. Scott Pruitt,
Administrator.

For the reasons set forth in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be 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 DD—National Emission Standards for Hazardous Air Pollutants for Hazardous
Air Pollutants from Off-Site Waste and Recovery Operations**

2. Section 63.691 is amended by revising paragraph (c)(3) introductory text to read as follows:

§63.691 Standards: Equipment leaks.

* * * * *

(c) * * *

(3) *Pressure release management.* Except as provided in paragraph (c)(4) of this section, emissions of HAP listed in Table 1 of this subpart may not be discharged directly to the atmosphere from pressure relief devices in off-site material service, and according to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time, as established in § 63.680(e)(i) through (iii) of this subpart, the owner or operator must comply with the requirements specified in paragraphs (c)(3)(i) and (ii) of this section for all pressure relief devices in off-site material service, except that containers are not subject to the obligations in (c)(3)(i) of this section.

* * * * *