

The EPA Administrator, E. Scott Pruitt, signed the following notice on 7/3/2018, 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-2010-0682. 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-2010-0682; FRL-]

RIN 2060-AU12

National Emission Standards for Hazardous Air Pollutants and New Source Performance

Standards: Petroleum Refinery Sector Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) Refinery MACT 1, which was published in the **Federal Register** on December 1, 2015, and subsequently amended on July 13, 2016. The December 1, 2015, action was the result of a risk and technology review in which the Environmental Protection Agency (EPA) finalized amendments to Refinery MACT 1 and Refinery MACT 2. The July 13, 2016, action finalized technical corrections and clarifications, as well as changes to compliance dates for various emission sources, including the maintenance vent standards that apply during periods of startup, shutdown, maintenance, or inspection. In this action, the EPA is proposing to amend the compliance dates for maintenance vents to January 30, 2019. These proposed revisions do not affect any other requirements in the December 1, 2015, or July 13, 2016, final actions. This proposed action will have an insignificant effect on emissions reductions and no effect on costs.

DATES: Comments. Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF 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 the location described in the **ADDRESSES** section. 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-2010-0682, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. See **SUPPLEMENTARY INFORMATION** for detail about how the EPA treats submitted comments. Regulations.gov is our preferred method of receiving comments. However, the following other submission methods are also accepted:

- *Email:* a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2010-0682 in the subject line of the message.
- *Fax:* (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2010-0682.
- *Mail:* To ship or send mail via the United States Postal Service, use the following address: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2010-0682, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- *Hand/Courier Delivery:* Use the following Docket Center address if you are using express mail, commercial delivery, hand delivery, or courier: EPA Docket Center, EPA

WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. Delivery verification signatures will be available only during regular business hours.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Ms. Brenda Shine, 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) 541-3608; fax number: (919) 541-0516; and email address: *shine.brenda@epa.gov*.

SUPPLEMENTARY INFORMATION:

Public Hearing. If a public hearing is requested, it will be held at the EPA WJC 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 website at: <https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-risk-and-technology-review-and-new-source>. The EPA does not intend to publish another document 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 EPA will make every effort to accommodate all speakers who arrive and register. If a hearing is held at a U.S. government facility, individuals planning to attend should be prepared to show a current, valid state- or federal-approved picture identification to the security staff in order to gain access to the meeting room. An expired form of identification will not be permitted. Please note that the Real ID Act, passed by Congress in 2005, established new requirements for

entering federal facilities. If your driver's license is issued by a noncompliant state, you must present an additional form of identification to enter a federal facility. Acceptable alternative forms of identification include: Federal employee badge, passports, enhanced driver's licenses, and military identification cards. Additional information on the Real ID Act is available at <https://www.dhs.gov/real-id-frequently-asked-questions>.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2010-0682. All documents in the docket are listed in Regulations.gov. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in 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-2010-0682. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or email. This type of information should be submitted by mail as discussed below.

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

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

Submitting CBI. Do not submit information containing CBI to the EPA through <https://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA,

mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2010-0682.

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:

AFPM	American Fuel and Petrochemical Manufacturers
API	American Petroleum Institute
CAA	Clean Air Act
CBI	Confidential Business Information
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
HAP	hazardous air pollutant(s)
LEL	lower explosive limit
MACT	maximum achievable control technology
NESHAP	national emission standards for hazardous air pollutants
NTTAA	National Technology Transfer and Advancement Act
OAQPS	Office of Air Quality Planning and Standards
OMB	Office of Management and Budget

PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
UMRA	Unfunded Mandates Reform Act

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

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E. Unfunded Mandates Reform Act (UMRA)

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

J. National Technology Transfer and Advancement Act (NTTAA)

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

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source categories that are the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992), the category titled

Petroleum Refineries – Other Sources Not Distinctly Listed includes any facility engaged in producing gasoline, naphthas, kerosene, jet fuels, distillate fuel oils, residual fuel oils, lubricants, or other products from crude oil or unfinished petroleum derivatives. This category includes all refinery emission sources except for three process vent sources listed in the Petroleum Refineries – Catalytic Cracking (Fluid and Other) Units, Catalytic Reforming Units, and Sulfur Plant Units source category. The refinery process units in the Petroleum Refineries – Other Sources Not Distinctly Listed source category include, but are not limited to, thermal cracking, vacuum distillation, crude distillation, hydroheating/hydrorefining, isomerization, polymerization, lube oil processing, and hydrogen production.

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

Source Category	NESHAP	NAICS code ¹
Petroleum Refineries	40 CFR part 63, subpart CC	324110

¹ North American Industry Classification System.

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 action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-risk-and-technology-review-and-new-source>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

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-2010-0682).

II. Background

The EPA initially promulgated NESHAP pursuant to the Clean Air Act (CAA) sections 112(d)(2) and (3) for major sources in the Petroleum Refineries – Other Sources Not Distinctly Listed source category on August 18, 1995, in 40 CFR part 63, subpart CC. These standards are also referred to as maximum achievable control technology (MACT) standards and this NESHAP for petroleum refineries is commonly referred to as Refinery MACT 1. The 1995 Refinery MACT 1 rule regulates miscellaneous process vents, storage vessels, wastewater, equipment leaks, gasoline loading racks, and marine tank vessel loading. On October 28, 2009, the EPA promulgated amendments to Refinery MACT 1 to include MACT standards for heat exchange systems, which were not originally addressed in Refinery MACT 1. This same rulemaking included updating cross-references to the General Provisions in 40 CFR part 63.

The EPA completed a residual risk and technology review of Refinery MACT 1, publishing final amendments on December 1, 2015. The December 1, 2015, final amendments included revisions to the Refinery MACT 1 requirements for process vents designated as “maintenance vents.” Maintenance vents are used only during startup, shutdown, maintenance, or inspection of equipment activities during which the equipment is emptied, depressurized, degassed, or placed into service. The December 1, 2015, final amendments require that the hydrocarbon content of the vapor in the equipment served by the maintenance vent to be less than or equal to 10 percent of the lower explosive limit (LEL) prior to venting to the atmosphere. The December 1, 2015, final rule also provides specific allowances for situations when the 10-percent LEL cannot be demonstrated or is technically infeasible. The compliance date included in the December 1, 2015, final rule for maintenance vents located at sources constructed on or before June 30, 2014, was February 1, 2016 (the effective date of the December 1, 2015, final amendments).

On January 19, 2016, the EPA received a petition for reconsideration from the American Petroleum Institute (API) and the American Fuel and Petrochemical Manufacturers (AFPM) formally requesting that the EPA reconsider the compliance date for maintenance vents located at sources constructed on or before June 30, 2014, among other issues.

In response to this petition, on July 13, 2016, the EPA revised the compliance date for maintenance vents located at sources constructed on or before June 30, 2014, from February 1, 2016, to August 1, 2017 (81 FR 45232; July 13, 2016).

III. What actions are we proposing?

In this action, the EPA is proposing to revise the compliance date for maintenance vents located at sources constructed on or before June 30, 2014, from August 1, 2017, to January 30, 2019. This proposed compliance date would provide petroleum refinery owners or operators with an additional 18 months to achieve compliance. The EPA is aware that many refineries have made good faith efforts to achieve compliance, including applying for and receiving an additional 12-month compliance extension. This makes their compliance deadline August 1, 2018, under the procedures provided in the General Provisions at 40 CFR 63.6(i). The compliance date included in this proposal (*i.e.*, January 30, 2019) is 3 years from the effective date of the December 1, 2015, final rule (*i.e.*, February 1, 2016). This proposed compliance date is consistent with CAA section 112(i)(3)(A), which specifies that the EPA provide a compliance date no more than 3 years after the effective date of the standard.

The EPA is proposing to amend the compliance date due to challenges petroleum refinery owners or operators have experienced in attempting to comply with the December 1, 2015, final rule requirements notwithstanding the additional compliance time provided in the July 13, 2016, final rule (*i.e.*, August 1, 2017) and the compliance extension procedure in 40 CFR 63.6(i) (*i.e.*,

August 1, 2018). The new requirements for maintenance vents promulgated in the December 1, 2015, rule resulted in the need for completing the “management of change process” for affected sources (81 FR 45232, 45237, July 13, 2016). The management of change process includes evaluating the change, forming an internal team to accomplish the change, engineering the change which could include developing new set points, installing new controls or alarms, conducting risk assessments, updating associated plans and procedures, providing training, performing pre-startup safety reviews, and implementing the change as required by other regulatory programs. Some refinery owners or operators have also indicated the need to install additional control equipment to meet the new requirements, which would require additional engineering design, site preparation, and installation.

Additionally, the EPA has received various requests from industry stakeholders for clarification regarding the maintenance vent provisions.^{1,2,3,4} In consideration of these submissions, the EPA has proposed technical corrections and clarifications for maintenance vents in a proposed rule which was published in the **Federal Register** on April 10, 2018. The public comment period for this proposed rule closed on May 25, 2018. The April 10, 2018, proposed rule directly affects compliance for maintenance vents and, therefore, creates uncertainty for affected sources, affecting the ability of refinery owners or operators to fully invest in compliance solutions.

¹ Supplemental Request for Administrative Reconsideration of Targeted Elements of the EPA’s Final Rule “Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards; Final Rule” Howard Feldman, API, and David Friedman, AFPM. February 1, 2016. Docket Item No.: EPA-HQ-OAR-2010-0682-0892.

² Letter from Matt Todd, API, and David Friedman, AFPM, to P. Lassiter, EPA. July 12, 2016. Available in Docket ID: EPA-HQ-OAR-2010-0682-0914.

³ Letter from Matt Todd, API, and David Friedman, AFPM, to P. Lassiter, EPA. March 28, 2017. Available in Docket ID: EPA-HQ-OAR-2010-0682-0915.

⁴ Todd, Matt. “Examples.” Message to Brenda Shine. September 11, 2017. Email. Available in Docket ID: EPA-HQ-OAR-2010-0682-0927.

A compliance date of January 30, 2019, will provide sufficient time for the EPA to take final action on the April 10, 2018, proposal, and sufficient time for sources to complete the management of change process and to fully invest in compliance solutions.

IV. Summary of Cost, Environmental, and Economic Impacts

The additional compliance time will have an insignificant effect on emission reductions and no effect on costs. The amount of time the maintenance vents are used are relatively infrequent and are usually of short duration (81 FR 45237, July 13, 2016). In addition, the proposed compliance date only provides approximately 6 months additional time beyond the August 1, 2018, compliance date for facilities that received a compliance extension under the procedure in 40 CFR 63.6(i).

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. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

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

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. The OMB has previously approved the information collection activities contained in the existing

regulations at 40 CFR part 63, subparts CC and UUU under the provisions of the PRA, 44 U.S.C. 3501 et seq., and has assigned the OMB control numbers 2060-0340 and 2060-0554. The proposed amendments are revisions to compliance dates that do not affect the estimated burden of the existing rule. Therefore, we have not revised the information collection request for the existing 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. 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. The action consists of revisions to compliance dates which do not change the expected economic impact analysis performed for the existing rule. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated 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, the relationship between the national government and the states, or 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. It will not have substantial direct effect 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.

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. The proposed amendments revise compliance dates. The additional compliance time will have an insignificant effect on emission reductions as many refiners already have measures in place due to state and other federal requirements to minimize emissions during these periods. Further, these periods are relatively infrequent and are usually of short duration. Therefore, the proposed amendments should not appreciably increase risk for any populations.

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 proposed amendments revise compliance dates. The additional compliance time will have an insignificant effect on emission reductions as many refiners already have measures in place due to state and other federal requirements to minimize emissions during these periods. Further, these periods are relatively infrequent and are usually of short duration. Additionally, the proposed compliance date only provides approximately 6 months beyond the August 1, 2018, compliance date for facilities operating under the compliance extension procedure in 40 CFR 63.6(i).

Therefore, the proposed amendments should not appreciably increase risk for any populations.

**National Emission Standards for Hazardous Air Pollutants and New Source Performance
Standards: Petroleum Refinery Sector Amendments**

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List of Subjects in 40 CFR Parts 60 and 63

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

Dated:

E. Scott Pruitt,
Administrator.

For the reasons stated 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 CC--National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

2. The appendix to subpart CC is amended by revising items 2 (iv), 3 (iv) and 4 (v) in table 11 to read as follows:

Appendix to Subpart CC of Part 63—Tables

* * * * *

Table 11—Compliance Dates and Requirements

* * * * *

If the construction/ reconstruction date is . . .	Then the owner or operator must comply with . . .	And the owner or operator must achieve compliance . . .	Except as provided in . . .
* * * * *			
(2) * * *	(iv) Requirements for existing sources in §63.643(c)	On or before January 30, 2019	§§63.640(k), (l), and (m) and 63.643(d).
* * * * *			
(3) * * *	(iv) Requirements for existing sources in §63.643(c)	On or before January 30, 2019	§§63.640(k), (l), and (m) and 63.643(d).
* * * * *			

If the construction/ reconstruction date is . . .	Then the owner or operator must comply with . . .	And the owner or operator must achieve compliance . . .	Except as provided in . . .
(4) * * *	(v) Requirements for existing sources in §63.643(c)	On or before January 30, 2019	§§63.640(k), (l), and (m) and 63.643(d).
* * * * *			