6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0417; FRL-XXXX-X]

RIN 2060–AT74

National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production 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 Hydrochloric Acid (HCl) Production source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, in this action we are finalizing amendments to add electronic reporting; address periods of startup, shutdown, and malfunction (SSM); and establish work practice standards for maintenance activities pursuant to the Clean Air Act (CAA). We are making no revisions to the numerical emission limits based on the risk analysis or technology review. Although these amendments are not anticipated to result in reductions in emissions of hazardous air pollutants (HAP), they will result in improved monitoring, compliance and implementation of the rule.

DATES: This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA-HQ-OAR-2018-0417. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information 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 Docket Center is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Nathan Topham, Sector Policies and Programs Division (D243-02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-0483; fax number: (919) 541-4991; and email address: *topham.nathan@epa.gov*. For specific information regarding the risk modeling methodology, contact Terri Hollingsworth, 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) 541-5623; fax number: (919) 541-0840; and email address: *hollingsworth.terri@epa.gov*. For information about the applicability of the NESHAP to a particular entity, contact Marcia Mia, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail

Code 2227A), 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564-7042; and email address: *mia.marcia@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:

CAA	Clean Air Act
CDX	Central Data Exchange
Cl_2	chlorine
ERT	Electronic Reporting Tool
HAP	hazardous air pollutants(s)
HCl	hydrochloric acid
HI	hazard index
HQ	hazard quotient
IARC	International Agency for Research on Cancer
ICR	Information Collection Request
MACT	maximum achievable control technology
MIR	maximum individual risk
NAAQS	National Ambient Air Quality Standards
NESHAP	national emission standards for hazardous air pollutants
NTTAA	National Technology Transfer and Advancement Act
RFA	Regulatory Flexibility Act
RTR	Risk and Technology Review
TOSHI	target organ-specific hazard index
UMRA	Unfunded Mandates Reform Act

Background information. On February 4, 2019, the EPA proposed the results of the RTR for the HCl NESHAP and proposed amendments to add electronic reporting and address periods of SSM. In the proposal, the EPA also solicited public comments regarding maintenance activities. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant 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 *Summary of Public Comments and Responses for Risk and Technology Review for Hydrochloric Acid Production,* in Docket ID No. EPA-HQ-OAR-2018-0417. 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
HCl production and fume silica production	HCl Production	325180

[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/hydrochloric-acid-production-national-emission-standards-hazardous*. 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 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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].** 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 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 1570, February 4, 2019.

B. What is the HCl Production source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the HCl Production NESHAP on April 17, 2003 (68 FR 19075). The standards are codified at 40 CFR part 63, subpart NNNNN. The HCl production industry consists of facilities that produce a liquid HCl product from a gas stream containing HCl through absorption.

The HCl production facility is the basic unit defined in the NESHAP. Specifically, the rule defines an HCl production facility as the collection of unit operations and equipment associated with the production of liquid HCl product. The production of liquid HCl product occurs through the absorption of gaseous HCl into either water or an aqueous HCl solution. The HCl production facility includes HCl storage tanks (as defined in 40 CFR 63.9075), HCl transfer operations that load the HCl product into a tank truck, rail car, ship, or barge, and equipment leaks. A plant site could have several separate and distinct HCl production facilities. The affected source includes all HCl production facilities at the same site. An HCl production facility begins at the point where a gaseous stream containing HCl enters an absorber and ends at the point where the liquid HCl product is loaded into a tank truck, rail car, ship, or barge, at the point the HCl product enters another process on the plant site, or at the point the HCl product leaves the

[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.").

plant site via pipeline. The source category covered by this MACT standard currently includes 19 facilities.

The 2003 NESHAP established emissions limitations for existing and new process vents, storage tanks, transfer operations, and equipment leaks. The NESHAP includes numerical emissions limitations for process vents, HCl storage tanks, and HCl transfer operations as well as work practice standards for equipment leaks.

C. What changes did we propose for the HCl Production source category in our February 4, 2019, proposal?

On February 4, 2019, the EPA published a proposed rule in the **Federal Register** for the HCl Production NESHAP, 40 CFR part 63, subpart NNNNN, that took into consideration the RTR analyses and proposed no changes to the NESHAP based on our CAA section 112(f) and 112(d)(6) (RTR) reviews. In addition, we proposed to add electronic reporting and to remove exemptions for periods of SSM. Finally, we sought public comments on work practice standards for maintenance activities.

We proposed revisions to the SSM provisions of the standards to ensure that they are consistent with the Court decision in *Sierra Club v. EPA*, 551 F. 3d 1019 (D.C. Cir. 2008). 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.

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 HCl Production source category and the EPA's decision that revisions to the

NESHAP are not necessary under the risk review or technology review because the NESHAP protects public health with an ample margin of safety and protects against an adverse environmental effect. We did not identify any developments in practices, processes, or control technologies under the technology review that warrant revisions to the MACT standards for this source category. However, this action finalizes other changes to the NESHAP, including removal of exemptions for periods of SSM, and the addition of electronic reporting requirements. This action also reflects changes to the February 2019 proposal in consideration of comments received during the public comment period related to work practice standards for maintenance activities described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the HCl Production source category?

This section describes the final actions regarding the HCl Production NESHAP that the EPA is taking pursuant to CAA section 112(f). The EPA proposed no changes to the NESHAP based on the risk review conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks caused by emissions from HCl production are acceptable, and that the standards provide an ample margin of safety to protect public health and that more stringent standards are not necessary to prevent an adverse environmental effect.

The EPA is, therefore, not revising the standards under CAA section 112(f)(2) (for NESHAP 40 CFR part 63, subpart NNNNN) based on the residual risk review and is readopting the existing standards under CAA section 112(f)(2). See *Summary of Public Comments and Responses for the Risk and Technology Review for the Hydrochloric Acid Production Source Category*, available in the docket for this action, for discussion of key comments and responses regarding the residual risk review.

B. What are the final rule amendments based on the technology review for the HCl Production 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 pursuant to section 112(d)(2) and (3) for the HCl Production source category?

In the February 4, 2019, proposal, the Agency sought comments on maintenance provisions recommended by industry prior to proposal to address the anticipated removal of SSM exemptions from the NESHAP. A company that owns multiple HCl production facilities and a trade association representing HCl producers commented that removing the SSM exemption would create uncertainty regarding how emissions from intermittent planned maintenance activities would be regulated. Commenters stated that equipment is cleaned and cleared of chemicals prior to opening to the atmosphere for maintenance activities. The commenters recommended work practice standards in lieu of numerical emissions standards for maintenance activities due to the impracticality of capturing and measuring these emissions.

In this final rule, based on consideration of public comments, the EPA is adding work practice standards for maintenance vents to ensure emissions from these activities are subject to standards. As discussed in section IV.D of this preamble, we determined that it is impractical to measure the extremely small amounts of HCl and chlorine (Cl_2) that could be emitted after opening these "maintenance vents" to the atmosphere and that these emissions could be adequately addressed through work practice standards.

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

The Agency is finalizing, as proposed, changes to the HCl Production NESHAP to eliminate the SSM exemption. Consistent with *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008), the EPA is establishing standards in this rule that apply at all times. Table 7 to Subpart NNNNN of Part 63 (General Provisions applicability table) is being revised to change several references related to requirements that apply during periods of SSM. The EPA eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. Other than the periods of maintenance activities described above which will be covered by work practice standards, the EPA determined that facilities in this source category can meet the applicable emission standards in the HCl Production NESHAP at all times, including periods of startup and shutdown. Also, as stated in our proposal, 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, and this reading has been upheld as reasonable by the Court in *U.S. Sugar Corp. v. EPA*, 830 F.3d 579, 606-610 (2016). The legal rationale and detailed changes for SSM periods that are being finalized in this rule are set forth in the preamble to the proposed rule. See 84 FR 1584 through 1587 (February 4, 2019) and discussed below.

1. 40 CFR 63.9005 General Duty

We are finalizing, as proposed, revisions to the General Provisions table (Table 7) entry for 40 CFR 63.6(e)(1)(i) by changing the “yes” in column 3 to a “no.” Section 63.6(e)(1)(i) describes the general duty to minimize emissions during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. The EPA is adding general

duty regulatory text at 40 CFR 63.9005(b) that reflects the general duty to minimize emissions during all periods of operation.

The EPA is also revising the General Provisions table (Table 7) entry for 40 CFR 63.6(e)(1)(ii) by changing the "yes" in column 3 to a "no." This provision requires malfunctions to be corrected as quickly as practicable and minimize emissions consistent with safety and good air pollution control practices. Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.9005(b).

2. SSM Plan

As proposed, the EPA is revising the General Provisions table (Table 7) entry for 40 CFR 63.6(e)(3) by changing the "yes" in column 3 to a "no." Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have the same incentive to plan for and achieve compliance as they do during periods of normal operation and, thus, planning requirements specific for SSM are no longer necessary.

3. Compliance with Standards

The EPA is revising the General Provisions table (Table 7) entry for 40 CFR 63.6(f)(1) by changing the "yes" in column 3 to a "no." The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* vacated the exemptions contained in 40 CFR 63.6(f)(1) and held that the CAA

requires a standard to apply continuously. Consistent with *Sierra Club,* the EPA is revising standards in this rule to apply at all times.

4. 40 CFR 63.9020 Performance Testing

The EPA is revising the General Provisions table (Table 7) entry for 40 CFR 63.7(e)(1) by changing the "yes" in column 3 to a "no." Section 63.7(e)(1) describes performance testing requirements. The EPA is instead adding a performance testing requirement at 40 CFR 63.9020(a)(3). The performance testing requirements we are adding differ from the General Provisions performance testing provisions in several respects. Specifically, the new performance testing requirements do not include the language in 40 CFR 63.7(e)(1) restating the SSM exemption. However, we are including similar language that precludes startup and shutdown periods from being considered "representative" for purposes of performance testing. We are including language in 40 CFR 63.9020(a)(3), similar to that in 40 CFR 63.7(e)(1), providing that performance tests conducted under this subpart should not be conducted during malfunctions. This is because conditions during malfunctions are not representative of normal operating conditions. The EPA is adding language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such records an explanation to support that such conditions represent normal operation. Section 63.7(e) requires that the owner or operator make available upon request by the Administrator such records "as may be necessary to determine the condition of the performance test," but does not specifically require the information to be recorded. The regulatory text the EPA is adding in 40 CFR 63.9020(a)(3) includes the record requirements in 40 CFR 63.7(e)(1) and also makes explicit the requirement to record the information.

5. Monitoring

The EPA is revising the General Provisions table (Table 7) entry for 40 CFR 63.8(c)(1)(i) and (iii) by changing the "yes" in column 3 to a "no." The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of the removal of the SSM exemption and other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)). We are revising the General Provisions table (Table 7) entry for 40 CFR 63.8(d)(3) by changing the "yes" in column 3 to a "no." 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 63.9005(d)(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)."

6. 40 CFR 63.9055 Recordkeeping

The EPA is revising the General Provisions table (Table 7) entry for 40 CFR 63.10(b)(2)(i) by changing the "yes" in column 3 to a "no." Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recordkeeping provisions are no longer necessary because the EPA is finalizing, as proposed, that recordkeeping and reporting applicable to normal operations will apply during startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain recordkeeping for startup and shutdown periods separate from the requirement that applies during normal operation.

We are revising the General Provisions table (Table 7) entry for 40 CFR 63.10(b)(2)(ii) by changing the "yes" in column 3 to a "no." Section 63.10(b)(2)(ii) describes the recordkeeping

requirements during a malfunction. The EPA is adding such requirements to 40 CFR 63.9055. The regulatory text we are adding differs from that in the General Provisions; the General Provisions require the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is finalizing, as proposed, that this requirement applies to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the "occurrence." The EPA is also adding to 40 CFR 63.9055 a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard which the source failed to meet, and a description of the method used to estimate the emissions. Examples of such methods would include product loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is requiring that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We are revising the General Provisions table (Table 7) entry for 40 CFR 63.10(b)(2)(iv) by changing the "yes" in column 3 to a "no." When applicable, the provision requires sources to record actions taken during SSM events when those actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable in 40 CFR 63.9055.

We are revising the General Provisions table (Table 7) entry for 40 CFR 63.10(b)(2)(v) by changing the "yes" in column 3 to a "no." When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

7. 40 CFR 63.9050 Reporting

The EPA is revising the General Provisions table (Table 7) entry for 40 CFR 63.10(d)(5) by changing the "yes" in column 3 to a "no." Section 63.10(d)(5) describes the reporting requirements for SSM events. To replace the General Provisions reporting requirement, the EPA is adding reporting requirements to 40 CFR 63.9050(c)(5). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as stand-alone reports. We are adding language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual compliance report already required in 40 CFR 63.9050. We are requiring that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source 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.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is finalizing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an

applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

The amendments eliminate the cross-reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

We are revising the General Provisions table (Table 7) entry for 40 CFR 63.10(d)(5)(ii) by changing the "yes" in column 3 to a "no." Section 63.10(d)(5)(ii) describes an immediate report for SSM events when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a SSM event were not consistent with an SSM plan, because such plans will no longer be required.

We are revising the General Provisions table (Table 7) entry for 40 CFR 63.10(c)(15) by changing the "yes" in column 3 to a "no." The EPA is finalizing, as proposed, that 40 CFR 63.10(c)(15) no longer applies. When applicable, the provision allows an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping requirements of the SSM plan, specified in 40 CFR 63.6(e), to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12). The EPA is eliminating this requirement because SSM plans will no longer be required, and, therefore, 40 CFR 63.10(c)(15) will no longer be available to satisfy the requirements of 40 CFR 63.10(c)(10) through (12).

The EPA is also finalizing a revision to the performance testing requirements at 40 CFR 63.9020(a)(2) through (3). This final rule text states that each performance test must be conducted under normal operating conditions; and operations during periods of startup, shutdown, or nonoperation do not constitute representative conditions for purposes of conducting

a performance test. The final rules also require that operators maintain records to document that operating conditions during the test represent normal operations.

Section IV.C.3 of this preamble provides a summary of key comments we received on the SSM provisions and our responses.

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

This rule also finalizes, as proposed, revisions to several other NESHAP requirements. The revisions are briefly described in this section (refer to section IV.D of this preamble for further details).

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing a requirement that owners or operators of facilities in the HCl Production source category submit electronic copies of certain required performance test results and reports, performance evaluation reports, compliance reports, and Notice of Compliance Status (NOCS) reports through the EPA's Central Data Exchange (CDX) website. Performance test and performance evaluation test reports are prepared using the EPA's Electronic Reporting Tool (ERT). We also are finalizing, as proposed, provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility (*i.e.,* a possible outage in the CDX or Compliance and Emissions Data Reporting Interface (CEDRI) or a *force majeure* event in the time just prior to a report's due date), as well as the process to assert such a claim. In addition, we are finalizing all proposed revisions for clarifying text or correcting typographical errors, grammatical errors, and cross-reference errors. No public comment has been received on the editorial corrections and clarifications, and these changes are being finalized as proposed. See 84 FR 1594 and 1596 (February 4, 2019).

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

The revisions to the MACT standards being promulgated in this action are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Existing affected sources and new affected sources that commenced construction or reconstruction on or before February 4, 2019, must comply with the amendments no later than 180 days after [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. Affected sources that commence construction or reconstruction after February 4, 2019, must comply with all requirements of 40 CFR part 63, subpart NNNNN, including the amendments being finalized, no later than the effective date of the final rule or upon startup, whichever is later. The EPA is finalizing four changes that affect ongoing compliance requirements for this subpart. First, we are changing the requirements for SSM by removing the provisions that provide an exemption from the requirements to meet the standard during SSM periods. Second, we are removing the requirement to develop and implement an SSM plan. Third, we are adding work practice standards for maintenance vents. Finally, we are adding a requirement that performance test results and reports, performance evaluation reports, compliance reports, and NOCS reports be submitted electronically. From the assessment of the timeframe needed for implementing the entirety of the revised requirements, the EPA proposed a period of 180 days to be the most expeditious compliance period practicable. The EPA received public comments from owners of HCl production facilities requesting more than 180 days for electronic reporting requirements to go into effect. Thus, the compliance date of the final amendments for all existing sources and new sources that commenced construction or reconstruction on or before February 4, 2019, will be **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for all revisions other than the electronic reporting requirements, which will be **[INSERT DATE 366 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL**

REGISTER] or when final electronic reporting templates for subpart NNNNN are finalized, whichever is later**.** The compliance date of the final amendments for new sources that commence construction or reconstruction after February 4, 2019, will be **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

IV. What is the rationale for our final decisions and amendments for the HCl Production source category?

For each issue, 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 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 available in the docket.

A. Residual Risk Review for the HCl Production Source Category

1. What did we propose pursuant to CAA section 112(f) for the HCl Production source category?

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the February 4, 2019, proposed rule for 40 CFR part 63, subpart NNNNN (84 FR 1582). The results of the risk assessment for the proposal are presented briefly in Table 2 of this preamble. More detail may be found in the residual risk technical support document, *Residual Risk Assessment for the Hydrochloric Acid Production Source Category in Support of the 2018 Risk and Technology Review Proposed Rule*, which is available in the docket for this rulemaking.

TABLE 2. INHALATION RISK ASSESSMENT SUMMARY FOR HYDROCHLORIC ACID PRODUCTION SOURCE CATEGORY

	Cancer MIR[1] (in 1 million)		Cancer Incidence (cases per year)	Population with cancer risk of 1-in-1 million or more	Population with cancer risk of 10-in-1 million or more	Max Chronic Noncancer HI[2] actuals (and allowables)
	Based on Actual Emissions	Based on Allowable Emissions				
Source Category	0	0	0	0	0	0.2 (2)
Whole Facility	600	--	0.09	980,000	130,000	6

[1]Maximum individual risk.
[2]Hazard index.

The results of the inhalation cancer risk assessment, as shown in Table 2 of this preamble, indicate there is no quantifiable cancer risk posed by the source category since the two HAP emitted from the HCl Production source category are not known or suspected carcinogens. Neither the EPA nor the International Agency for Research on Cancer (IARC) has evaluated the weight of evidence with respect to human carcinogenicity for Cl_2. However, IARC has determined that HCl is not classifiable as a human carcinogen. Likewise, the total estimated cancer incidence is 0 (zero) excess cancer cases per year and no people are estimated to have cancer risk associated with this source category. The maximum modeled chronic noncancer target-organ-specific hazard index (TOSHI) value for the source category based on actual emissions is estimated to be 0.2, driven by emissions of Cl_2 from process vents. The target organ affected is the respiratory system. The maximum modeled chronic noncancer TOSHI increases when based on allowable emissions, with a TOSHI as high as 2 (respiratory) driven by Cl_2 emissions from process vents at two facilities. Based on allowable emissions, 300 people are estimated to have a noncancer HI above 1 at these two facilities.

The screening and refined analyses for acute impacts were based on an estimate of peak hourly actual emissions. To estimate the peak hourly emission rates from the annual average rates, a default multiplier of 10 was used for emission points in the source category. The choice

of a default multiplier of 10 is discussed in section III.C.3.c of this preamble. The results of the acute refined analysis indicate that the maximum off-facility-site acute hazard quotient (HQ) is 0.7, based on the reference exposure level value for HCl, and occurs at one facility.

No HAP known to be persistent and bio-accumulative in the environment (cadmium, dioxins, polycyclic organic matter, mercury, arsenic, and lead) are emitted from this source category. Therefore, a multi-pathway assessment is not warranted. The only environmental HAP emitted by facilities in this source category is HCl. Results of the analysis for HCl indicate that, based on actual emissions, the maximum annual off-site concentration is below all ecological benchmarks for all facilities. Therefore, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

All health risk factors were weighed, including those shown in Table 2 of this preamble, in our risk acceptability determination and the EPA proposed that the risks posed by the HCl Production source category are acceptable (see section IV.B.1 of proposal preamble, 84 FR 1570, February 4, 2019).

The EPA then considered whether 40 CFR part 63, subpart NNNNN, provides an ample margin of safety to protect public health and whether, taking into consideration costs, energy, safety, and other relevant factors, and to prevent an adverse environmental effect. In considering whether standards are required to provide an ample margin of safety to protect public health, the same risk factors were considered as for the acceptability determination along with costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category. As discussed in the proposal preamble (84 FR 1570, February 4, 2019), after considering all the factors mentioned above, the EPA proposed that additional emissions controls for the HCl Production source

category are not required to provide an ample margin of safety to protect public health. The Agency also proposed that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. See sections IV.B.2 and 3 of the proposal preamble, 84 FR 1570, February 4, 2019.

2. How did the risk review change for the HCl Production source category?

The EPA did not receive any public comments or data that caused the Agency to change our emissions estimates, risk assessment methods, or decisions regarding acceptability and ample margin of safety from those presented in the proposal. Therefore, the EPA did not rerun the risk modeling analyses. At proposal, we determined that risks due to the HCl Production source category are acceptable, no revisions are needed to provide an ample margin of safety, and more stringent standards are not necessary to prevent an adverse environmental effect. Upon consideration of the comments received, we are finalizing our determination that the current standards provide an ample margin of safety and it is not necessary to set a more stringent standard to prevent an adverse environmental effect. More details regarding the risk assessment can be found in the *Residual Risk Assessment for the Hydrochloric Acid Production Source Category in Support of the 2019 Risk and Technology Review Final Rule*, available in the docket for this rulemaking.

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

The EPA received mixed public comments on the risk review, with some commenters supportive of our methodology and proposed decisions while others disagreed. Examples from commenters on suggested changes to the EPA's risk assessment methodology included that the EPA should lower its presumptive limit of acceptability for cancer risks to below 100-in-1 million, include emissions outside of the source categories in question in the risk assessment, and

assume that pollutants with noncancer health risks have no safe level of exposure. After review of all the comments received, it was determined that no changes were necessary. The comments and specific responses can be found in the document, *Summary of Public Comments and Responses for the Risk and Technology Review for the Hydrochloric Acid Production Source Category*, available in the docket for this action.

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

As noted in the proposal, the EPA sets standards under CAA section 112(f)(2) using "a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of "approximately 1-in-10 thousand" (see 54 FR 38045, September 14, 1989). All health risk measures and factors in our risk acceptability determination are weighed, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

As noted above, the EPA did not receive any comments that resulted in a change to the risk estimates for the source category. After considering all comments regarding the EPA's risk review methodology and proposed decisions, the EPA has determined to finalize its proposed determinations regarding risk acceptability, ample margin of safety, and adverse environmental effects. For the reasons explained in the proposed rule, in section IV.A.2 of this preamble, and in the EPA's Response to Comment document for this final rule, the EPA determines that the risks from the source category are acceptable, the current standards provide an ample margin of safety to protect public health, and more stringent standards are not necessary to prevent an adverse environmental effect. Therefore, the EPA is not revising the standards pursuant to CAA section

112(f)(2) based on the residual risk review, and the Agency is readopting the existing standards under CAA section 112(f)(2).

At proposal, the EPA sought public comments on the use of the updated ethylene oxide cancer risk value for regulatory purposes.[2] We received a number of comments related to this request and as stated in the proposal for the Miscellaneous Organic NESHAP RTR proposal, we are incorporating those comments into the record for that rulemaking and plan to respond to them in the final RTR rulemaking for that source category. See 84 FR 69187, December 17, 2019.[3] We also note that the Agency is taking action to address emissions of ethylene oxide in a number of ways as described in the proposal preamble. See 84 FR 1584, February 4, 2019.

B. Technology Review for the HCl Production Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the HCl Production source category?

Pursuant to CAA section 112(d)(6), the EPA proposed to conclude that no revisions to the current standards are necessary for the HCl Production source category. No developments were found in practices, processes, and control technologies that could be applied to HCl production facilities.

2. How did the technology review change for the HCl Production source category?

[2] The EPA did so because the assessment of facility-wide risks, undertaken to provide context for the source category risk, indicated that the maximum facility-wide cancer MIR was 600-in-1 million, mainly driven by ethylene oxide emissions from a variety of industrial processes, none of which are part of this source category. See 84 FR 1583, February 4, 2019.

[3] The EPA held a public hearing on March 27, 2019, in Washington, DC, at which time a number of speakers spoke to the use of the updated ethylene oxide cancer risk value for regulatory purposes. A transcript of that hearing has been placed in the docket for this rulemaking and, as well, will be incorporated by reference in the docket for the rulemaking for the Miscellaneous Organic NESHAP RTR (Docket ID No. EPA-HQ-OAR-2018-0746).

We have not changed any aspect of the technology review since the February 4, 2019, RTR proposal for the HCl Production source category.

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

The comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Risk and Technology Review for Hydrochloric Acid Production*, which is available in the docket for this action.

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

Pursuant to CAA section 112(d)(6), we are finalizing the technology review as proposed. For the reasons explained in the proposed rule, we determined that there are no developments in practices, processes, or control technologies that warrant revisions to the standards. We evaluated all of the comments on the EPA's technology review and, for the reasons stated in our responses to those comments, we determined no changes to the review are needed.

C. Amendments Addressing Emissions During Periods of SSM

1. What amendments did we propose to address emissions during periods of SSM?

We proposed removing and revising provisions related to SSM that are not consistent with the requirement that standards apply at all times. More information concerning our proposal on SSM can be found in the proposed rule (84 FR 1584, February 4, 2019).

2. How did the SSM provisions change since proposal?

Since proposal, the SSM provisions have not changed.

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

The comments and our specific responses can be found in the comment summary and response document titled *Summary of Public Comments and Responses for the Risk and Technology Review for Hydrochloric Acid Production*, which is available in the docket for this action.

4. What is the rationale for our final approach and final decisions to SSM-related requirements?

We evaluated all of the comments on the EPA's proposed amendments to the SSM provisions. For the reasons explained in the preamble to the proposed rule (84 FR 1584, February 4, 2019) and our response to comment document, we are removing the provisions related to SSM that are not consistent with the requirement that the standards apply at all times, and are finalizing revised requirements for periods of SSM, as proposed.

D. Other Amendments

1. What other amendments did we propose for the HCl Production source category?

We proposed that owners or operators submit electronic copies of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports through the EPA's CDX using the CEDRI. For initial notifications, initial startup reports, annual compliance certifications, and deviation reports, the proposed rule would require that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. We also proposed two broad circumstances in which we may provide extension to these requirements. We proposed at 40 CFR 63.9050(m) that an extension may be warranted due to outages of the EPA's CDX or CEDRI that precludes an owner or operator from accessing the system and submitting required reports. We also proposed at 40 CFR 63.9050(n) that an extension may be warranted due to a *force majeure* event, such as an act of nature, act of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

The Agency sought public comment on whether there was a need to address equipment that is opened during regular maintenance activities, in light of the proposed removal of the SSM exemptions, and if these maintenance activities should be addressed via work practice standards. See 84 FR 1589, February 4, 2019. Prior to the February 4, 2019, proposal, industry representatives expressed concerns about the regulatory status of certain equipment opened to the atmosphere during periods for maintenance, given that they believed the activities previously were exempted under the SSM provisions.

2. How did the other amendments for the HCl Production source category change since proposal?

We are finalizing as proposed the requirements for owners or operators to submit electronic copies of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports electronically. We also are finalizing, as proposed, the provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility.

After considering the public comments received regarding maintenance activities that occur during startup and shutdown, the EPA is finalizing a requirement for equipment designated as "maintenance vents" to be thoroughly purged of HCl and Cl_2 prior to opening that equipment to the atmosphere. We have added paragraph (f) to 40 CFR 63.9040 with requirements for equipment that owners/operators designate as a maintenance vent. Owners or operators must demonstrate that equipment served by a maintenance vent contains less than 20 pounds of residual HCl or Cl_2 prior to opening that equipment to the atmosphere.

3. What key comments did we receive on the other amendments for the HCl Production source category and what are our responses?

We received one comment providing input on the proposed requirement for owners and operators of HCl production facilities to submit electronic copies of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports.

Comment: One commenter stated that the EPA must not finalize the proposed electronic reporting extension provisions because the definition of a *force majeure* event is too broad, the provisions do not set a firm deadline to request an extension of the reporting deadline, and the decision to allow an extension is solely within the discretion of the Administrator. The commenter urged that the proposed provisions are unlawful and arbitrary because they would create a broad and vague mechanism that a facility owner or operator could use to evade binding emission standards by evading the binding compliance reporting deadlines set to assure compliance with those standards. The commenter further stated that the EPA should not import the concept of "*force majeure*" into any part of the CAA, as to do so is a variation of the prior malfunction exemptions that are unlawful under the CAA. The commenter also noted that the EPA has provided that there are no known issues with submission of ERT-formatted performance test and evaluation reports in CEDRI (per the Petroleum Refinery NESHAP), thus, there is no rational basis for providing the proposing reporting extensions. At a minimum, the commenter requested that the EPA set a new firm deadline to assure that the extension request allows only a temporary period when the facility need not report, such as a 10-day extension, rather than an open-ended extension without a deadline.

Response: The commenter states that the brief case-by-case extension of report submittal deadlines is a "reporting exemption." This is not the case. The proposed provisions the commenter questions are in paragraphs 40 CFR 63.9050(m) and (n).

There is no exception or exemption to reporting, much less an exemption from compliance with the numerical emission standards, only 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 much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to access electronically stored data or to submit reports electronically. The Administrator 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 may even request that the report be sent in hard copy 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* has been implemented by the EPA in this context since May 2007 within the CAA requirements through the performance test extensions provided in 40 CFR 60.8(a)(1) and 63.7(a)(4). 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 ability to request a reporting extension "would create a broad and vague mechanism" that owners and operators "could use to evade binding emissions standards" or evade "binding compliance reporting deadlines" for emissions standards. While

reporting is an important mechanism for the EPA and air agencies to assess whether owners and operators are in compliance with emissions standards, reporting obligations are separate from (*i.e.*, in addition to) requirements that an owner or operator be in compliance with an emissions standard. The commenter references deadlines set forth in the CAA for demonstrating initial compliance following the effective date of emission standards, which differs from deadlines for submitting reports. There are no such deadlines stated in the CAA for report due dates, meaning the EPA has discretion to establish reporting schedules, and also discretion to allow a mechanism for extension of those schedules on a case-by-case basis. In fact, under the commenter's reasoning, if the statutory deadlines for compliance with standards were read to strictly apply to continuing reporting requirements, no such reporting could be required after 3 years from the promulgation of the standards. This would not be a reasonable result. Reporting deadlines are often different from compliance deadlines. Rules under 40 CFR part 60 and 63 typically allow months following an initial compliance deadline to conduct testing and submit reports, but compliance with standards is required upon the compliance date.

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 agrees 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. 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.

Finally, 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 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). As such, we have determined that no changes to the electronic reporting requirements are necessary in the final rule.

Comment: Two commenters requested that the EPA address small and intermittent levels of HCl and Cl_2 emissions that could occur during maintenance activities. According to the commenters, these activities were previously not subject to the NESHAP due to the SSM exemptions included in the HCl Production NESHAP. The commenters state that lines and equipment used in this source category are routinely cleared and cleaned of chemicals. The frequency of these activities varies depending on the facility, but plants may be shut down annually for scheduled maintenance. The equipment is purged free of materials and washed with water, and in some cases, it is further purged with air to a control device. Even in these scenarios after washing and purging, when the equipment is opened to the atmosphere, there may be some small trace levels of HCl and/or Cl_2 that could be present and potentially emitted. The commenters claim that it would be significantly burdensome for every vent with these small amounts of HCl or Cl_2 emissions to be addressed by the rule's requirements for process vents. The commenters state that this could trigger costly controls, testing, monitoring, and recordkeeping/reporting obligations for trace emissions.

The commenters suggest two courses of action for the EPA to address emissions from maintenance activities and vents through which emissions occur during these periods. These suggestions are, (1) adding a definition for maintenance vent to the list of sources excluded from process vent standards, or (2) adding a work practice standard that applies to maintenance vents, similar to work practices added in other recent NESHAP amendments in which the SSM exemptions were removed.

The commenters state that removing the SSM exemption creates uncertainty regarding whether any emissions from a maintenance vent, regardless of magnitude, may become subject to the standard. The commenters also add that planned maintenance activities typically occur on an annual basis. The commenters state that they believe the best performing sources in the category drain and purge lines prior to performing maintenance activities. The commenters state that should the EPA choose to regulate emissions from these maintenance activities, setting a numerical emission limit would be impractical because the type and size of equipment being maintained differs between facilities. Furthermore, the commenters assert that measuring emissions from these maintenance activities would be impractical due to the small magnitude of emissions and their short duration.

Response: Upon consideration of the public comments submitted, the EPA is finalizing a definition for maintenance vents and work practice standards that minimize the potential for emissions from maintenance activities that occur during periods of startup or shutdown. We agree with the commenters that it is impractical to measure the small levels of HCl or Cl_2 that could be emitted from these pieces of equipment during intermittent maintenance activities. Furthermore, we agree with the commenters that cleaning and purging equipment to a control device prior to opening that equipment during maintenance activities represents the performance of the best performing sources in the industry.

Additional comments on the proposed electronic reporting requirements and other amendments discussed in this section and our specific responses to those comments can be found in the memorandum titled *Summary of Public Comments and Responses for the Risk and Technology Review for Hydrochloric Acid Production*, available in the docket for this action.

4. What is the rationale for our final approach and final decisions for the other amendments to the HCl Production source category?

We considered the comments on the EPA's proposed amendments to require electronic reporting initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports. For the reasons explained in the proposed rule, and in our responses to those comments, we are establishing electronic reporting, as proposed. These amendments will increase the ease and efficiency of data submittal and improve data accessibility. More information concerning the proposed requirement for owners and operators of HCl production facilities to submit electronic copies of certain notifications and reports is in the preamble to the proposed rule (84 FR 1593, February 4, 2019) and the document, *Summary of Public Comments and Responses for the Risk and Technology Review for Hydrochloric Acid Production*, available in the docket for this action. Therefore, we are finalizing our approach for submission of initial notifications, initial startup reports, annual compliance certifications, deviation reports, and performance test reports as proposed. We are, however, allowing facilities up to 1 year from publication of the final rule or 1 year from finalization of the electronic reporting templates for owners/operators of HCl production facilities to use electronic reporting. Furthermore, after considering public comments, we are finalizing work practice standards for periods of maintenance activities.

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

A. What are the affected facilities?

There are 19 HCl production facilities currently operating as major sources of HAP subject to the final amendments. A complete list of facilities that are currently subject to the

MACT standards is available in the memorandum titled *Industry Characterization for the Hydrochloric Acid Production NESHAP Residual Risk and Technology Review Final*, available in Docket ID No. EPA-HQ-OAR-2018-0417.

B. What are the air quality impacts?

Because the EPA is not revising the emission limits, we do not anticipate any quantifiable air quality impacts as a result of these amendments. However, we determined that the final requirements, including the work practice standards for maintenance activities, are at least as stringent as the current rule requirements. The work practice standards include requirements for facilities to clear equipment of HCl and Cl_2 before it is opened to the atmosphere. These requirements will minimize emissions during these periods.

C. What are the cost impacts?

The cost impacts from these final amendments are net savings in costs to affected HCl production facilities due to revised recordkeeping and reporting requirements. One way to present cost estimates is in present value (PV terms). The PV for these proposed amendments is equal to an estimated cost savings of $55,341 at a discount rate of 3 percent and a cost savings of $44,911 at a discount rate of 7 percent, discounted to 2020. The equivalent annualized value, which is an annualized value consistent with the PV estimates, is equal to $7,649 at a discount rate of 3 percent and $7,029 at a discount rate of 7 percent (2016 dollars). The time period over which these estimates are calculated includes the 5-year period following promulgation of these amendments. These calculations are documented in the *Economic Impact Analysis for the Hydrochloric Acid Production RTR Final*, which is available in the docket for this rulemaking.

D. What are the economic impacts?

As noted earlier, we estimated a nationwide cost savings associated with the final requirements over the 5-year period following promulgation of these amendments. This cost savings will not yield adverse economic impacts to affected entities or markets. For further information on the economic impacts associated with the final requirements, see the memorandum, *Economic Impact Analysis for Hydrochloric Acid Production NESHAP RTR Final*, which is available in the docket for this action.

E. What are the benefits?

The EPA is not finalizing changes to emissions limits, and we estimate the final changes (*i.e.,* changes to SSM, monitoring, recordkeeping and reporting, and the addition work practices for maintenance activities) are not economically significant. Because these final amendments are not considered economically significant, as defined by Executive Order 12866 and because no emissions reductions were estimated, we did not estimate any benefits from reducing emissions.

F. What analysis of environmental justice did we conduct?

As discussed in the preamble to the proposed rule, to examine the potential for any environmental justice issues that might be associated with the source category, we 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 HCl Production source category across different demographic groups within the populations living near facilities. When examining the risk levels of those exposed to emissions from HCl production facilities, we found that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1.

The documentation for this decision is contained in section IV.A of the preamble to the proposed rule and the technical report titled *Risk and Technology Review – Analysis of Demographic Factors for Populations Living Near Hydrochloric Acid Production*, which is 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 summarized in section IV.A of this preamble and are further documented in the risk report, *Residual Risk Assessment for the Hydrochloric Acid Production Source Category in Support of the 2020 Risk and Technology Review Final Rule,* 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 Orders 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 considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2032.11. 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.

The EPA is finalizing amendments that revise provisions pertaining to emissions during periods of SSM; add requirements for electronic reporting of certain notifications and reports and performance test results; and make other minor clarifications and corrections. This information will be collected to assure compliance with the HCl Production NESHAP.

Respondents/affected entities: Owners or operators of HCl production facilities.

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

Estimated number of respondents: 19 (assumes no new respondents over the next 3 years).

Frequency of response: Initially, occasionally, and annually.

Total estimated burden: 22,000 hours (per year) to comply with all of the requirements in the NESHAP. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $2,700,000 (per year), including $162,000 annualized capital or operation and maintenance costs, to comply with all of the requirements in the NESHAP.

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. This action will not impose any requirements on small entities. There are no small entities among the 14 ultimate parent companies impacted by this proposed action given the Small Business Administration small business size definition for this industry (1,000 employees or greater for NAICS 325180), and no significant economic impact on any of these entities.

E. 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, 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. None of the HCl production facilities that have been identified as being affected by this final action are owned or operated by tribal governments or located within tribal lands. 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 the EPA does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections IV.A of this preamble and the document, *Residual Risk Assessment for the Hydrochloric Acid Production Source Category in Support of the 2020 Risk and Technology Review Final Rule*, which is available in the docket for this rulemaking.

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 action involves technical standards. Therefore, the EPA conducted a search to identify potentially applicable voluntary consensus standards. However, the Agency identified no such standards. A thorough summary of the search conducted and results are included in the memorandum titled *Voluntary Consensus Standard Results for Hydrochloric Acid Production Residual Risk and Technology Review*, which is available in the docket for this action.

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.A of this preamble and in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for*

Populations Living Near Hydrochloric Acid Production Facilities, available in the docket for this action.

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

_____.
Dated:

_____
Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 63 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 NNNNN—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

2. Section 63.8985 is amended by revising paragraph (f) to read as follows:

§63.8985 Am I subject to this subpart?

* * * * *

(f) An HCl production facility is not subject to this subpart if all of the gaseous streams containing HCl and chlorine (Cl_2) from HCl process vents, HCl storage tanks, and HCl transfer operations are recycled or routed to another process for process purpose, prior to being discharged to the atmosphere.

3. Section 63.9005 is amended by revising paragraphs (a)-(c) and (d)(4)-(6) to read as follows:

§63.9005 What are my general requirements for complying with this subpart?

(a) Before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after April 17, 2003, but before February 5, 2019, you must be in compliance with the emission limitations and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction. After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL**

REGISTER], for each such source you must be in compliance with the emission limitations in this subpart at all times. For new and reconstructed sources for which construction or reconstruction commenced after February 4, 2019, you must be in compliance with the emissions limitations in this subpart at all times.

(b) Before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after April 17, 2003, but before February 5, 2019, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in §63.6(e)(1)(i). After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for each such source, and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for new and reconstructed sources for which construction or reconstruction commenced after February 4, 2019, at all times you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you 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 which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(c) Before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each existing source, and for each new or reconstructed source for

which construction or reconstruction commenced after April 17, 2003, but before February 5, 2019, you must develop a written startup, shutdown, and malfunction plan according to the provisions in §63.6(e)(3). For each such source, a startup, shutdown, and malfunction plan is not required after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. No startup, shutdown, and malfunction plan is required for any new or reconstructed source for which construction or reconstruction commenced after February 4, 2019.

(d) * * *

(4) Before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after April 17, 2003, but before February 5, 2019, ongoing operation and maintenance (O&M) procedures in accordance with the general requirements of §§63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.9025. After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for each such source, and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for new and reconstructed sources for which construction or reconstruction commenced after February 4, 2019, ongoing operation and maintenance (O&M) procedures in accordance with the general requirements of §§63.8(c)(1)(ii), (3), (4)(ii), (7), and (8), and 63.9025.

(5) Before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after April 17, 2003, but before February 5, 2019, ongoing data quality assurance procedures in accordance with the general requirements of §63.8(d). After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE**

FEDERAL REGISTER] for each such source, and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for new and reconstructed sources for which construction or reconstruction commenced after February 4, 2019, ongoing data quality assurance procedures in accordance with the general requirements of §63.8(d) except for the requirements related to startup, shutdown, and malfunction plans referenced in §63.8(d)(3). 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).

(6) Before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after April 17, 2003, but before February 5, 2019, ongoing recordkeeping and reporting procedures in accordance with the general requirements of §63.10(c) and (e)(1) and (2)(i). After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for each such source, and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for new and reconstructed sources for which construction or reconstruction commenced after February 4, 2019, ongoing recordkeeping and reporting procedures in accordance with the general requirements of §63.10(c)(1) through (c)(14), and (e)(1) and (2)(i).

4. Section 63.9020 is amended by revising paragraphs (a)(2)-(3) to read as follows:

§63.9020 What performance tests and other procedures must I use?

(a) * * *

(2) Before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each existing source, and for each new or reconstructed source for which construction or reconstruction commenced after April 17, 2003, but before February 5, 2019, you must conduct each performance test under representative conditions according to the requirements in §63.7(e)(1) and under the specific conditions that this subpart specifies in Table 3. After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for each such source, and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for new and reconstructed sources for which construction or reconstruction commenced after February 4, 2019, you must conduct each performance test under conditions representative of normal operations. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(3) You may not conduct performance tests during periods of startup, shutdown, or malfunction.

* * * * *

5. Section 9025 is amended by revising paragraph (a)(3) to read as follows:

§63.9025 What are my monitoring installation, operation, and maintenance requirements?

(a) * * *

(3) For at least 75 percent of the operating hours in a 24-hour period, you must have valid data (as defined in your site-specific monitoring plan) for at least 4 equally spaced periods each hour.

* * * * *

6. Section 63.9030 is amended by revising paragraph (c) to read as follows:

§63.9030 How do I demonstrate initial compliance with the emission limitations and work practice standards?

* * * * *

(c) For existing sources and for new or reconstructed sources which commenced construction or reconstruction after April 17, 2003, but before February 5, 2019, before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in §63.9045(f)-(g). After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for such sources, and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for new or reconstructed sources which commence construction or reconstruction after February 4, 2019, you must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in §§63.9045(f)-(g) and 63.9050(d).

7. Section 63.9040 is amended by revising paragraph (e) and adding paragraph (f) to read as follows:

§63.9040 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

* * * * *

(e) For existing sources and for new or reconstructed sources which commenced construction or reconstruction after April 17, 2003, but before February 5, 2019, before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, consistent with §§63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with §63.6(e)(1). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in §63.6(e). After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for such sources, and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** for new and reconstructed sources which commence construction or reconstruction after February 4, 2019, the exemptions for periods of startup, shutdown, and malfunction in §63.6(e) no longer apply.

(f) An owner or operator may designate a process vent as a maintenance vent if the vent is only used as a result of startup or shutdown, of equipment where equipment is emptied, depressurized, degassed or placed into service. The owner or operator does not need to designate a maintenance vent as a HCl process vent, HCl storage tank vent, or an HCl transfer operation. The owner or operator must comply with the applicable requirements in paragraphs (f)(1) through (2) of this section for each maintenance vent by **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** or the date of startup for new and reconstructed sources, whichever is later, unless an extension is requested in accordance with the provisions in §63.6(i).

(1) Prior to venting to the atmosphere, process liquids must be removed from the equipment as much as practical and the equipment must be washed with water or purged with air or otherwise depressurized to a control device, fuel gas system, or back to the process to remove the HCl and Cl_2 until the equipment served by the maintenance vent contains less than 20 pounds of HCl or Cl_2.

(2) For maintenance vents complying with the requirements in paragraph (f)(1) of this section, the owner or operator shall demonstrate the mass of HCl or Cl_2 in the equipment served by the maintenance vent is less than 20 pounds for each maintenance activity based on the equipment size and contents after considering any contents drained or purged from the equipment. Equipment size may be determined from equipment design specifications. Equipment contents may be determined using process knowledge. The owner or operator must maintain records for five years of the number of maintenance activities for which maintenance vent provisions are used during each reporting period.

8. Section 63.9045 is amended by revising paragraph (f) to read as follows:

§63.9045 What notifications must I submit and when?

* * * * *

(f) You must submit the Notification of Compliance Status, including the performance test results, within 180 calendar days after the applicable compliance dates specified in §63.8995.

* * * * *

9. Section 63.9050 is amended by revising paragraph (a), (c)(4)-(5), (d), (f) and adding paragraphs (g)-(m).

§63.9050 What reports must I submit and when?

(a) You must submit a compliance report that includes the information in §63.9050(c) through (e), as applicable, as specified in Table 6 to this subpart.

* * * * *

(c) * * *

(4) For existing sources and for new or reconstructed sources for which construction or reconstruction commenced after April 17, 2003, but before February 5, 2019, before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in §63.10(d)(5)(i). A startup, shutdown, and malfunction plan and the information in §63.10(d)(5)(i) is not required after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(5) For existing sources and for new or reconstructed sources which commenced construction or reconstruction after April 17, 2003, but before February 5, 2019, before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, if there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.

* * * * *

(d) For each deviation from an emission limitation occurring at an affected source where you are using a continuous monitoring system (CMS) to comply with the emission limitation in this subpart, you must include the information in paragraphs (c)(1) through (6) of this section and the following information in paragraphs (d)(1) through (9) of this section and §63.10(e)(3)(vi). This includes periods of startup, shutdown, and malfunction.

* * * * *

(f) For existing sources and for new or reconstructed sources which commenced construction or reconstruction after April 17, 2003, but before February 5, 2019, before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, for each startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan you must submit an immediate startup, shutdown and malfunction report. Unless the Administrator has approved a different schedule for submission of reports under §63.10(a), you must submit each report according to paragraphs (f)(1) and (2) of this section. An immediate startup, shutdown, and malfunction report is not required after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

* * * * *

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

(1) *Data collected 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 to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI 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 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.* Submit the results of the performance test as an attachment in the ERT.

(3) *Confidential business information (CBI)*. If you claim some of the information submitted under paragraph (a)(1) 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 (a)(1) of this section.

(h) Within 60 days after the date of completing each CMS performance evaluation (as defined in §63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (h)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation*. Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. 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 XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Website at the time of the evaluation*. Submit the results of the performance evaluation as an attachment in the ERT.

(3) *Confidential business information (CBI)*. If you claim some of the information submitted under paragraph (a)(1) 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 (a)(1) of this section.

(i) You must submit to the Administrator compliance reports. Beginning on **[INSERT DATE 366 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** or 1 year after the appropriate electronic reporting template becomes available on the CEDRI website, whichever is later, submit all subsequent reports following the procedure specified in paragraph (l) of this section.

(j) You must submit to the Administrator performance evaluations. Beginning on **[INSERT DATE 366 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** or 1 year after the appropriate electronic reporting template becomes available on the CEDRI website, whichever is later, submit all subsequent reports following the procedure specified in paragraph (l) of this section.

(k) You must submit to the Administrator a Notification of Compliance Status. Beginning on **[INSERT DATE 366 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** or 1 year after the appropriate electronic reporting template becomes available on the CEDRI website, whichever is later, submit all subsequent reports following the procedure specified in paragraph (l) of this section.

(l) If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via CEDRI. CEDRI 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 date report templates become available will be listed on the CEDRI website. 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.

(m) 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 (m)(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 occurred within the period of time beginning 5 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 caused a delay in reporting.

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

(i) The date, time and length of the outage;

(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.

(n) 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 majeure*, you must meet the requirements outlined in paragraphs (n)(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 5 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 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 63.9055 is amended by revising paragraph (b)(1) and adding paragraphs (c) and (d).

§63.9055 What records must I keep?

* * * * *

(b) * * *

(1) For existing sources and for new or reconstructed sources which commenced construction or reconstruction after April 17, 2003, but before February 5, 2019, before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the records in §63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. for a period of 5 years. A startup, shutdown, and malfunction plan is not required after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

* * * * *

(c) After **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must keep records of each deviation specified in paragraphs (c)(1) through (3) of this section.

(1) For each deviation record the date, time, and duration of each deviation.

(2) For each deviation, 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.

(3) Record actions taken to minimize emissions in accordance with 63.9005(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(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.

11. Table 1 to subpart NNNNN of part 63 is amended by correcting a typographical error in entry 2.

Table 1 to Subpart NNNNN of Part 63—Emission Limits and Work Practice Standards

* * * * *

For each . . .	You must meet the following emission limit and work practice standard
* * * * * * *	
2. Emission stream from an HCl storage tank at an existing source	Reduce HCl emissions by 99 percent or greater or achieve an outlet concentration of 120 ppm by volume or less.
* * * * * * *	

12. The introductory text to table 6 of subpart NNNNN of part 63 and the table entries are revised to read as follows:

Table 6 to Subpart NNNNN of Part 63—Requirements for Reports

As stated in §63.9050(a), you must submit a compliance report that includes the information in §63.9050(c) through (e) as well as the information in the following table. For existing sources and for new or reconstructed sources which commenced construction or reconstruction after April 17, 2003, but before February 5, 2019, before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must also submit startup, shutdown, and malfunction reports according to the requirements in §63.9050(f) and the following. A startup, shutdown, and malfunction plan is not required after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

If. . .	Then you must submit a report or statement that:
1. There are no deviations from any emission limitations that apply to you	There were no deviations from any emission limitations that apply to you during the reporting period. Include this statement in the compliance report.
2. There were no periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan	There were no periods during which the CMS were out-of-control during the reporting period. Include this statement in the compliance report.
3. There was a deviation from any emission limitation during the reporting period	Contains the information in §63.9050(d). Include this statement in the compliance report.
4. There were periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan	Contains the information in §63.9050(d). Include this statement in the compliance report.
5. There was a startup, shutdown, and malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan	For existing sources and for new or reconstructed sources which commenced construction or reconstruction after April 17, 2003, but before February 5, 2019, before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, contains the information in §63.9050(f). Include this statement in the compliance report. A startup, shutdown, and malfunction plan is not required after **[INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.
6. There were periods when the procedures in the LDAR plan were not followed	Contains the information in §63.9050(c)(7). Include this statement in the compliance report.

13. Table 7 to subpart NNNNN of part 63 is amended by:

a. Removing the entry “§63.6(e)(1)-(2)”;

b. Adding the entries “§63.6(e)(1)(i)”, “§63.6(e)(1)(ii)”, and “§63.6(e)(1)(iii)-(e)(2)” in numerical order;

c. Revising the entry “§63.6(e)(3)”;

d. Revising the entry “§63.6(f)(1)”;

e. Revising the entry “§63.7(e)(1)”;

f. Removing the entry “§63.8(c)(1)-(3)”;

g. Adding the entries “§63.8(c)(1)(i)”, “§63.8(c)(1)(ii)”, “§63.8(c)(1)(iii)”, and “§63.8(c)(2)-(3)” in numerical order;

h. Removing the entry “§63.8(d)-(e)”;

i. Adding the entries “§63.8(d)(1)-(2)”, “§63.8(d)(3)”, and “§63.8(e)” in numerical order;

j. Removing the entry “§63.10(b)(2)(i)-(xi)”;

k. Adding the entries “§63.10(b)(2)(i)-(ii)”, “§63.10(b)(2)(iii)”, “§63.10(b)(2)(iv)”, “§63.10(b)(2)(v)”, “§63.10(b)(2)(vi)”, and “§63.10(b)(2)(vii)-(xi)” in numerical order;

l. Removing the entry “§63.10(c)”;

m. Adding the entries “§63.10(c)(1)-(14)” and “§63.10(c)(15” in numerical order; and

n. Revising the entry “§63.10(d)(5)”;

The revisions and additions read as follows:

Table 7 to Subpart NNNNN of Part 63—Applicability of General Provisions to Subpart NNNNN

* * * * *

Citation	Requirement	Applies to subpart NNNNN	Explanation
* * * * * * *			
§63.6(e)(1)(i)	General Duty to minimize emissions	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL**	Subpart NNNNN requires affected units to meet emissions standards at all times. See §63.9005(b) for general duty requirement.

		REGISTER], and No thereafter.	
§63.6(e)(1)(ii)	Requirement to correct malfunctions ASAP	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	
§63.6(e)(1)(iii)-(e)(2)	Operation and maintenance requirements	Yes.	
§63.6(e)(3)	Startup, Shutdown, and Malfunction Plans	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL**	

		REGISTER], and No thereafter.	
§63.6(f)(1)	Compliance except during startup, shutdown, and malfunction	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	
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§63.7(e)(1)	Conditions for conducting performance tests	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	See §63.9020(a) for performance testing requirements.

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§63.8(c)(1)(i)	General duty to minimize emissions and CMS operation	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	
§63.8(c)(1)(ii)	Continuous monitoring system O&M	Yes.	Applies as modified by §63.9005(d).
§63.8(c)(1)(iii)	Requirement to develop Startup, Shutdown, and Malfunction Plan for CMS	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	

§63.8(c)(2)-(3)	Continuous monitoring system O&M	Yes	Applies as modified by §63.9005(d)
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§63.8(d)(1)-(2)	Quality control program and CMS performance evaluation	Yes	Applies as modified by §63.9005(d).
§63.8(d)(3)	Written procedures for CMS	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	See §63.9005(d)(5) for written procedures for CMS.
§63.8(e)	Performance evaluation of CMS	Yes.	Applies as modified by §63.9005(d).
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§63.10(b)(2)(i)-(ii)	Records related to startup, shutdown, and malfunction periods	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected	See 63.9055 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.

		sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	
§63.10(b)(2)(iii)	Maintenance Records	Yes.	
§63.10(b)(2)(iv)	Actions taken to minimize emissions during startup, shutdown, and malfunction	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	
§63.10(b)(2)(v)	Actions taken to minimize emissions during startup, shutdown, and malfunction	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT**	

		DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], and No thereafter.	
§63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions	Yes	
§63.10(b)(2)(vii)-(xi)	Records for performance tests and CMS	Yes	
* * * * * * *			
§63.10(c)(1)-(14)	Additional recordkeeping requirements for sources with CMS	Yes	Applies as modified by §63.9005 (d).
§63.10(c)(15)	Use of Startup, Shutdown, and Malfunction Plan	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	
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§63.10(d)(5)	Startup, shutdown, and malfunction reports	No, for new or reconstructed sources which commenced construction or reconstruction after February 4, 2019. Yes, for all other affected sources before **[INSERT DATE 181 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and No thereafter.	See §63.9050(c)(5) for malfunction reporting requirements.
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