6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2020-0016; FRL-10007-29-OAR]

RIN 2060-AU25

National Emission Standards for Hazardous Air Pollutants: Phosphoric Acid Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Phosphoric Acid Manufacturing source category. The proposed amendment is in response to a petition for rulemaking by an industry stakeholder on the mercury emission limit based on the maximum achievable control technology (MACT) floor for existing sources set in a rule that was finalized on August 19, 2015 ("2015 Rule"). All six of the existing calciners used to set this MACT floor were located at the PCS Phosphate Company, Inc. ("PCS Phosphate") facility in Aurora, North Carolina ("PCS Aurora"). PCS Phosphate asserted that data received since the rule's promulgation indicate that the MACT floor did not accurately characterize the average emission limitation achieved by the units used to set the standard. Based on these new data, the U.S. Environmental Protection Agency (EPA) proposes to revise the mercury MACT floor for existing calciners.

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

Public hearing. If anyone contacts us requesting a public hearing on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, we will hold a hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document and posted at *https://www.epa.gov/stationary-sources-air-pollution/phosphate-fertilizer-production-plants-and-phosphoric-acid*. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2020-0016 by any of the following methods:

- Federal eRulemaking Portal: *https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- Email: *a-and-r-docket@epa.gov*. Include Docket ID No. EPA-HQ-OAR-2020-0016 in the subject line of the message.
- Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2020-0016.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2020-0016, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Hand/Courier Delivery: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m. – 4:30 p.m., Monday – Friday (except federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/*, including

any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. John Feather, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3052; fax number: (919) 541-4991 and email address: *feather.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

Public hearing. Please contact Ms. Nancy Perry at (919) 541-5628 or by email at *perry.nancy@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2020-0016. All documents in the docket are listed in Regulations.gov. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in Regulations.gov or in hard copy at the EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2020-0016. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov/* or email. This type of information should be submitted by mail as discussed below.

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

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical

difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets*.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2020-0016.

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:

ACI	activated carbon injection
BTF	beyond-the-floor

CAA	Clean Air Act
CBI	Confidential Business Information
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
GMCS	Gore Mercury Control System
HAP	hazardous air pollutant(s)
ICR	information collection request
lb/yr	pounds per year
MACT	maximum achievable control technology
mg/dscm	milligram per dry standard cubic meter
NAICS	North American Industry Classification System
NESHAP	national emission standards for hazardous air pollutants
NTTAA	National Technology Transfer and Advancement Act
OAQPS	Office of Air Quality Planning and Standards
OMB	Office of Management and Budget
ppm	parts per million
SBA	Small Business Administration
tph	tons per hour
tpy	tons per year
UPL	upper prediction limit

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

Table of Contents

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source category that is the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (*see* EPA-450/3-91-030, July 1992), the Phosphoric Acid Manufacturing source category includes any facility engaged in the production of phosphoric acid. The category includes, but is not limited to, production of wet-process phosphoric acid and superphosphoric acid.

TABLE 1. NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

NESHAP and source category	NAICS Code[1]
Phosphoric Acid Manufacturing	325312

[1] North American Industry Classification System.

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

In addition to being available in the docket, an electronic copy of this action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/phosphate-fertilizer-production-plants-and-phosphoric-acid.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

A redline version of the regulatory language that incorporates the proposed changes is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0016).

C. What is the source of the Agency's authority for taking this action?

The statutory authority for this action is provided by section 112 of the Clean Air Act (CAA) (42 U.S.C. 7412). A technology-based NESHAP has been developed for major sources in the Phosphoric Acid Manufacturing source category. ‘‘Major sources’’ are those that emit, or have the potential to emit, any single hazardous air pollutant (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, MACT standards 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. In setting 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 more information. 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 we call "beyond-the-floor" (BTF) 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. The EPA may amend MACT floor determinations if they were improperly set (*Medical Waste Institute and Energy Recovery Council v. EPA*, 645 F. 3d 420, 425–27 (D.C. Cir. 2011)). In the Phosphoric Acid Manufacturing source category, the calciners' mercury emissions are effectively uncontrolled, so their actual emissions are considered to be the average emission limitation achieved by the best-performing sources.

D. What action is the Agency taking?

The EPA is proposing to amend 40 CFR part 63, subpart AA. This amendment is in response to a petition for a rulemaking to amend the 2015 Rule's calciner mercury MACT floor emission limit, submitted by PCS Phosphate to the Agency on September 6, 2016. The petition is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0016). The EPA

proposes to raise the mercury MACT floor-based limit for existing calciners from 0.14 milligrams per dry standard cubic meter (mg/dscm) at 3-percent oxygen (O_2) to 0.23 mg/dscm at 3-percent O_2. Table 1 to Subpart AA of Part 63 – Existing Source Emission Limits is reproduced in its entirety at the end of this preamble for the sake of clarity. However, the EPA is proposing to amend only the existing source mercury limit for phosphate rock calciners, along with its footnote indicating the applicable compliance date. This proposed amendment would not impact any other aspect of the table or regulatory text.

II. Background

A. Why is the EPA issuing this proposed review?

In August 2015, we published final amendments to the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production NESHAP (80 FR 50386, August 19, 2015). As part of that action, we established MACT-based mercury emissions limits for new and existing calciners within the Phosphoric Acid Manufacturing source category. These limits were based on emissions data from the six identical calciners at the PCS Aurora facility. Because these six sources are of identical design and use the same fuel and feed, we determined that they should be treated as a single source for purposes of MACT floor development. As a result, we combined the emission test results for the different calciners into a single database that we used as the basis to set MACT floor emissions limits for both new and existing sources. We also evaluated a BTF option for MACT for existing calciners but did not select the BTF option as MACT because we determined that the economic impacts to the facility would not be reasonable. We did set a BTF limit for new calciners.

Following promulgation of the 2015 Rule, PCS Phosphate petitioned for reconsideration, pursuant to section 307(d)(7)(B) of the CAA, on October 16, 2015. The EPA granted the petition

for reconsideration of the issues presented at the time relating to the compliance schedule for oxidation reactor emissions and absorber liquid-to-gas ratios. This reconsideration was finalized on September 13, 2017. However, subsequent to this petition for reconsideration, compliance testing of the calciners for mercury emissions in 2016 showed that three calciners at the Aurora facility exceeded the MACT limit, with the three other calciners near the limit. For reference, the mean calciner compliance emissions in 2016 were 0.143 mg/dscm at 3-percent O_2, higher than the MACT limit of 0.14 mg/dscm at 3-percent O_2. The mean of these emissions was 44 percent higher than the mean of the data from the 2010 and 2014 information collection request (ICR) that was used to develop the 2015 Rule's emission limit. On May 10, 2016, PCS Phosphate submitted a letter to the EPA requesting a revision to the calciner mercury MACT floor standard. On September 6, 2016, PCS Phosphate added the calciner mercury limit to its earlier petition for reconsideration. This additional request was not raised with reasonable specificity or within 60 days of the publication of the 2015 Rule, so the mercury MACT floor issue was not included in the reconsideration. However, on the basis of the test data presented, the EPA was convinced there was justification to review the mercury calciner limit and include new emissions data in that analysis. Because of that evaluation, as explained below, the EPA is now proposing a revised mercury emissions standard for existing calciners.

B. What are the issues raised by the petitioner?

PCS Phosphate raised concerns about whether the mercury MACT limit accurately represents the average emission limitation achieved by the calciners at their facility in Aurora, North Carolina. These calciners, on which the MACT floor was based, consistently showed emissions above the calculated floor level. This was believed to be due to two factors:

- The 2010 and 2014 emission test data used in calculating the MACT floor were obtained while the calciners were operating at throughput rates that averaged 52 wet tons per hour (tph), due in part to mining limitations. Based on industry statements and values from state-mandated test reports, these calciners typically operate at a feed throughput rate of greater than 65 wet tph. This low throughput during initial tests biased the emissions data low.
- The mercury content of the feed material varies significantly. The limited data available from the 2010 and 2014 tests did not fully capture this variability or the range of mercury content that may be expected to be present in the phosphate rock. Changes in feed mercury content directly affect mercury emissions.

III. Analytical Procedures and Decision-Making

A. What mercury emissions and phosphate rock composition data were collected?

To develop our 2015 Rule, we obtained initial ICR data from PCS Aurora in 2010 that consisted of three test runs performed during one stack test of a single calciner (three test runs during each stack test). These data were collected using EPA Method 30B, the same method used for compliance testing. Speciated mercury data, differentiating elemental mercury from total mercury, was also obtained by the ASTM D6784-02 (Ontario-Hydro) method. Due to concerns about basing a MACT floor on such a limited dataset, in 2014 an additional nine test runs were performed during three stack tests of a different calciner. Based on data from these 12 test runs, we calculated a MACT floor using the 99-percent upper prediction limit (UPL). The 2015 UPL data and analysis are included in this docket (Docket ID No. EPA-HQ-OAR-2020-0016).

Each year from 2016 to 2019, PCS Aurora measured mercury emissions from each of the six calciners with three-run stack tests. In addition, the facility performed a study varying feed throughput rates and stack test sampling times. During every test run from 2016 and on, PCS Aurora measured the feed ore mercury concentration. PCS Aurora also analyzed the mercury content of an additional 48 samples of ore (rock) collected from core samples to better characterize the expected mercury in feed ore in future years. In total, our dataset for this MACT floor analysis includes 104 stack test runs under normal operating rates. These new data provide more information that better characterize average calciner mercury emissions. This rule's data and analysis are also available in the MACT floor memorandum in the docket (Docket ID No. EPA-HQ-OAR-2020-0016).

On the basis of the new data provided, we do not believe now that the testing used to set the MACT limit in the 2015 Rule represented the emissions that calciners achieve during normal operations. We agree that the measured levels could not be achieved were the sources operating under normal loads. Compliance testing data from 2016 through 2019 has consistently shown emissions exceeding the MACT floor limit when operating at normal loads. Each year the average emissions tested under normal loads exceeded the MACT floor. Every test run in 2018 and 2019 exceeded the MACT limit, as did the three tests in 2017 operating under normal loads and most of the other non-compliance test runs. The average emissions indicated from the new data are significantly higher than those from the data used to set the MACT limit in the 2015 Rule. Furthermore, composition testing shows that the 2010 and 2014 ICR tests did not represent the full range of the on-site phosphate rock's mercury content. The mercury composition average in feed phosphate rock has increased since the ICR tests, and from 2016 to 2019. Testing has also shown an unanticipated degree of variation of mercury content in phosphate rock, both in

the short-term feed and in on-site ore that would be used as feed in the future. Mercury emissions are a function of both the rate of input feed and the concentration of mercury in the feed. Additional mercury entering the calciner, whether by more feed entering the calciner or a higher concentration of mercury in the feed, leads to an increased magnitude of mercury emissions. Calciner airflow rates are insensitive to the throughput rate, keeping fairly constant without regard for how much feed is being processed. The increased concentrations of mercury emissions that these new data show are due to the increased amount of mercury entering into the calciners through the feed, not because of process inefficiencies or problems with operating conditions. Therefore, for purposes of calculating the MACT floor, we have used emissions data from 2016 through 2019, as well as studies of the variance in the mercury in ore at the Aurora site.

B. How did we calculate the MACT floor limit?

In general, MACT floor analyses involve an assessment of the emissions from the best-performing sources in a source category using the available emissions information. For each source category, the assessment involves a review of emissions data with an appropriate accounting for emissions variability. Various methods of estimating emissions can be used if the methods can be shown to provide reasonable estimates of the actual emissions from a source or sources.

To determine the MACT floors for phosphate rock calciners, we used the arithmetic average of all the available emissions data from 2016 through 2019 and accounted for emissions variability. We accounted for emissions variability in setting floors not only because variability is an aspect of performance, but because it is reasonable to assess performance over time and to account for test method variability. The United States Court of Appeals for the District of Columbia Circuit has recognized that the EPA may consider variability in estimating the degree

of emission reduction achieved by best-performing sources and in setting MACT floors (*Mossville Environmental Action Now v. EPA*, 370 F.3d 1232, 1241–42 (D.C. Cir. 2004)). For more detailed information about the EPA's analytical process in using the UPL to calculate MACT floors, see the 2015 Rule's UPL memorandum, included in this docket (Docket ID No. EPA-HQ-OAR-2020-0016).

The dataset for this analysis used the 104 stack test runs that were taken under normal operating conditions. Because the calciners typically operate at 65 tph of feed or more, we excluded from the analysis any test runs that were conducted when feed rates were below 65 tph. These lower feed rates do not represent normal operation and would bias the result low. This excluded the 12 runs from the 2010 and 2014 ICR tests, along with 13 runs from tests in 2016 and 2017 that specifically sought to vary parameters to better understand the emission results.

The 2015 Rule MACT floor analysis used the stack test data to calculate the average emissions and the 99-percent UPL to account for variability in the testing and calciner operations. Our revised analysis in this proposal relies on the statistical analysis of the new data set that represent emissions from normal operations. In addition, we are now using data on the mercury concentrations in phosphate ore areas yet to be mined to account for variability that would occur in the future. We determined the variance of the ore mercury concentration data and added that to the variance of the emissions test data. The relative standard deviation of mercury content in the future feed is slightly greater than that of mercury emissions and varies independently. We used this 99-percent lognormal UPL with independent future feed variance to calculate the MACT floor limit for existing rock calciners of 0.23 mg/dscm on a 3-percent O_2 basis. Table 2 of this preamble lists the proposed mercury emission limit for phosphate rock

calciners. For more information, see the MACT floor memorandum in the docket for this rulemaking (Docket ID No. EPA-HQ-OAR-2020-0016).

TABLE 2. PROPOSED EMISSON LIMIT FOR MERCURY FROM PHOSPHATE ROCK CALCINERS AT PHOSPHORIC ACID FACILITIES

Pollutant	Limit	Units
Existing sources: Mercury……..	0.23	mg/dscm @ 3% O2

C. What is our BTF Analysis?

The 2015 Rule evaluated possible BTF control options. That analysis focused on the activated carbon injection (ACI) system and Gore Mercury Control System (GMCS), largely based on site-specific quotes provided by the PCS Aurora facility. These technologies both employ adsorption to capture mercury emissions from the calciners with feasible mercury reductions of 90 percent. An ACI system injects halogenated powdered activated carbon into the airflow, oxidizing elemental mercury which adsorbs to the activated carbon. The GMCS consists of a series of modules containing catalysts and sorbents which capture all forms of mercury passing through. The GMCS requires a higher capital cost than the ACI system, with an associated higher annualized cost based on conditions at the time, so the 2015 Rule based its evaluations on the lower cost of the ACI system. The analysis showed a cost effectiveness of $29,800 to $36,400 per pound of mercury reduced and an economic impact to the purified acid process of approximately 0.9 percent to 5.3 percent. This was determined to be cost effective, but the significant economic impact to the facility led to the EPA's previous decision to not pursue the BTF option.

This current review also used the 2015 Rule's control costs for evaluations of BTF mercury removal cost effectiveness and its related economic impact. Based on the mercury

emissions data available for this proposal, mercury emissions are estimated to be 264 pounds per year (lb/yr), compared to the earlier estimate of 169 lb/yr during the 2015 Rule. Due to this, the ACI sorbent rate and associated cost were adjusted to account for the higher mercury removal. Otherwise, the ACI system parameters are unchanged from the 2015 Rule's cost analysis. The GMCS capacity was sufficient to achieve this higher mercury removal without modifications or increased cost. Based on these adjustments, we estimate that the total capital cost of the ACI system is $20.1 million and the total annualized cost is $5.69 million per year. This results in a cost per pound for mercury removal of $23,900. The GMCS total capital cost is $36.4 million and the total annualized cost is $4.99 million per year, with a cost per pound for mercury removal of $21,000. We still consider these controls to be cost effective.

PCS merged with Agrium to form Nutrien in 2018, after the 2015 Rule was promulgated. As was the case during the 2015 Rule's analysis, annualized control technology costs represent less than 1 percent of the revenue for the Aurora facility's parent company, which is now Nutrien. Parent company revenue is significantly higher due to the merger, so control costs now comprise a smaller proportion of the company revenue than before. However, operations at the PCS Aurora facility have not substantively changed since our 2015 Rule's analysis. The total costs of the ACI system are also higher due to the fact that the amount of mercury removed increases correspondingly with the increased estimates of mercury emissions. In our economic analysis in the 2015 Rule, we determined that the economic impacts on the specific process line being controlled were unreasonable and did not impose a BTF option. In our new analysis, control costs have increased. These control costs represent more than 1 percent of the purified acid process revenue associated with the calciners. We find the costs for the ACI system are too

high to justify pursuing the BTF option. For more detail, see the BTF memorandum in the docket for this rulemaking (Docket ID No. EPA-HQ-OAR-2020-0016).

IV. Summary of Cost, Environmental, and Economic Impacts

Only the PCS Aurora facility and its six calciners would be affected by the change to the existing calciner MACT floor proposed in this action. We are proposing to raise the MACT floor based on new data from the existing calciners. Since neither this amendment nor the 2015 Rule requires controls, we do not anticipate a change in actual mercury emissions as a result of this proposed rule. More mercury emissions will be allowable due to raising the MACT floor. However, currently we estimate total actual emissions of mercury from all six calciners to be 264 lb/yr, less than the 352 lb/yr conservatively estimated in the 2015 Rule, so we continue to anticipate no adverse environmental impact.

The 2015 Rule set a mercury limit of 0.14 mg/dscm at 3 percent that current operations cannot achieve under normal operations. Without this amendment, additional controls such as the ACI system would be necessary to comply with that standard. If this amendment is finalized, the value of those controls would represent a cost-savings for the facility, since those expenditures would be expected to no longer be necessary. The costs of installing new ACI control equipment to meet the 2015 Rule's calciner mercury standard were estimated to comprise a present value cost of approximately $26 million (2017 dollars) discounted at 7 percent to 2019 over a 5-year analytical period. Therefore, this action will result in a total cost savings of $26 million. For more detail, see the economic impact analysis memorandum in the docket (Docket ID No. EPA-HQ-OAR-2020-0016).

V. Request for Comments

The EPA seeks public comments on the issues addressed in this proposed rule, as described in this document. We are soliciting comments on the proposed revised standards, particularly the method of determining the average emission limitation achieved by the calciners for mercury emissions and costs of mercury control.

VI. Statutory and Executive Order Reviews

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

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

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

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

This action is expected to be an Executive Order 13771 deregulatory action. Details on the estimated costs of this proposed rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0361. With this action, the EPA is seeking comments on proposed amendments to the 40 CFR part 63, subpart AA existing rule language narrowly concerning the calciner mercury MACT floor. Therefore, the EPA believes that there are no changes to the information collection requirements of the 2015 Rule, so the

information collection estimate of projected cost and hour burden from the 2015 Rule remains unchanged.

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. The single facility currently subject to the calciner mercury MACT floor requirements of 40 CFR 63, subpart AA is not a small entity.

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

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

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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 does not involve any new technical standards.

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

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

The environmental justice finding in the 2015 Rule remains relevant in this action, which seeks comments on proposed amendments to the 40 CFR part 63, subpart AA existing rule language narrowly concerning the calciner mercury MACT floor.

List of Subjects in 40 CFR Part 63

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

_____.
Dated:

_____
Andrew R. Wheeler,
Administrator.

For the reasons set forth in the preamble, the EPA proposes to amend 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 AA—National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing Plants

2. Table 1 to Subpart AA of Part 63 – Existing Source Emission Limits is amended by revising Phosphate Rock Calciner Mercury limit to read as follows:

0.23 mg/dscm corrected to 3 percent oxygen [e]

The compliance date footnote for that limit is being changed from "d" to "e," and footnote "e" is added to read as follows:

Compliance date is [**DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**].

Table 1 to Subpart AA of Part 63 – Existing Source Emission Limits [a] [b]

For the following existing sources . . .	You must meet the emission limits for the specified pollutant . . .		
	Total fluorides	Total particulate	Mercury
Wet-Process Phosphoric Acid Line	0.020 lb/ton of equivalent P_2O_5 feed.		
Superphosphoric Acid Process Line [c].	0.010 lb/ton of equivalent P_2O_5 feed.		
Superphosphoric Acid Submerged Line with a Submerged Combustion Process	0.020 lb/ton of equivalent P_2O_5 feed.	0.2150 lb/ton of phosphate rock feed	
Phosphate Rock Dryer ….	……		
Phosphate Rock Calciner ….	9.0E-04 lb/ton of rock feed ….	0.181 g/dscm ……..	0.23 mg/dscm corrected to 3 percent oxygen[e]

[a] The existing source compliance data is June 10, 2002, except as noted.

[b] During periods of startup and shutdown, for emission limits stated in terms of pounds of pollutant per ton of feed, you are subject to the work practice standards specified in §62.602(f).

[c] Beginning on August 19, 2018, you must include oxidation reactors in superphosphoric acid process lines when determining compliance with the total fluorides limit.

[d] Compliance date is August 19, 2015.

[e] Compliance date is [**DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**].