

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63****[EPA-HQ-OAR-2004-0094; FRL-]****[RIN 2060-AM75]****National Emission Standards for Hazardous Air Pollutants:
General Provisions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; amendments.

SUMMARY: The EPA is proposing amendments to the General Provisions to the national emission standards for hazardous air pollutants (NESHAP). These amendments would replace a policy described in a May 16, 1995 EPA memorandum (“Potential to Emit for Maximum Achievable Control Technology (MACT) Standards—Guidance on Timing Issues,” May 16, 1995, from John Seitz, Director, Office of Air Quality Planning and Standards, to EPA Regional Air Division Directors), and specify how a major source may become an area source by limiting its potential to emit hazardous air pollutants (HAP) to below the major source thresholds of 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP. A source attaining area source designation would no longer be subject to major source MACT or relevant NESHAP for major sources regardless of when that designation is attained. That is, today’s proposed amendments would allow a major source to become an area source at any time, even after the first substantive compliance date of an applicable MACT standard. We are also revising tables in numerous MACT standards that specify applicability to General Provisions

requirements.

DATES: Comments. Written comments must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION OF THE PROPOSED AMENDMENTS IN THE FEDERAL REGISTER].

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by [INSERT DATE 20 DAYS AFTER THE DATE OF PUBLICATION OF THE PROPOSED AMENDMENTS IN THE FEDERAL REGISTER], a public hearing will be held on [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION OF THE PROPOSED AMENDMENTS IN THE FEDERAL REGISTER]. Persons interested in attending the public hearing should contact Ms. Lala Alston at (919) 541-5545 to verify that a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2004-0094, by one of the following methods:

- www.regulations.gov. Follow the on-line instructions for submitting comments.
- Email: a-and-r-docket@epa.gov, Attention Docket ID No. EPA-HQ-OAR-2004-0094.
- Facsimile: (202) 566-1741, Attention Docket ID No. EPA-HQ-OAR-2004-0094.
- Mail: U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Ave., NW., Room: B108, Mail Code: 6102T, Washington, DC, 20460, Attention E-Docket ID No. EPA-HQ-OAR-2004-0094.
- Hand Delivery: Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Ave., NW, Room: B102,

Mail Code: 6102T, Washington, DC, 20460, Attention Docket ID No. EPA-HQ-OAR-2004-0094. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2004-0094. 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 www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov, or e-mail. Send or deliver information identified as CBI only to the following address: Mr. Roberto Morales, OAQPS Document Control Officer, U.S. EPA (C404-02), Attention Docket ID No. EPA-HQ-OAR-2004-0094, Research Triangle Park, NC 27711. Clearly mark the part or all of the information that you claim to be CBI. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail 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, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., 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 Air and Radiation Docket is (202) 566-1742.

Public Hearing. If a public hearing is held, it will be held at the EPA facility complex in Research Triangle Park, NC or an alternate site nearby.

FOR FURTHER INFORMATION CONTACT: Rick Colyer, Program Development Group (C504-05), Sector Policies and Programs Division, Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-5262, electronic mail (e-mail) address, colyer.rick@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action include all major sources in source categories listed pursuant to section 112(c) of the CAA.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

OUTLINE

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I. Summary of Proposed Action

Today's proposed amendments would replace EPA's policy, established in a May 16, 1995, EPA memorandum (see "Potential to Emit for MACT Standards—Guidance on Timing Issues," May 16, 1995, from John Seitz, Director, Office of Air Quality Planning and Standards, to EPA Regional Air Division Directors). That policy allowed a major

source to become an area source by limiting its potential to emit (PTE) HAP emissions to below major source levels (10 tpy or more of any individual HAP or 25 tpy or more of any combination of HAP), no later than the source's first substantive compliance date under an applicable NESHAP (also known as a maximum achievable control technology, or MACT, standard). The PTE limits would preclude the source from exceeding the major source thresholds, so as to classify itself as an area source and thus not be subject to major source requirements. Under the 1995 policy, if a source did not have its PTE limits in place by the first substantive compliance date, EPA would consider the source subject to major source MACT, regardless of its subsequent HAP emissions. The 1995 policy is generally referred to as EPA's "once in, always in" (OIAI) policy for MACT standards. The regulatory amendments proposed today, if finalized, would replace the 1995 policy and allow a major source of HAP emissions to become an area source at any time by limiting its PTE to ensure the source's PTE for HAP remains below the major source thresholds.

II. Background

Section 112 of the CAA distinguishes between "major" and "area" sources of HAP. A major source of HAP is defined as ". . . any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tpy or more of any hazardous air pollutant or 25 tpy or more of any combination of hazardous air pollutants." (§112(a)(1)). An area source is defined as any stationary source of HAP that is not a

major source. (§112(a)(2)). “Hazardous air pollutant” is defined as “. . . any air pollutant listed pursuant to subsection (b)” of section 112. (§112(a)(6)).

“Potential to emit” is defined as “. . . the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.” (40 CFR 63.1).¹

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In National Mining Association v. EPA, 59 F. 3d 1351(D.C. Cir. 1995) (NMA), the D.C Circuit remanded the definition of "potential to emit" found in 40 C.F.R. §63.1 to the extent it required that physical or operational limits be "federally enforceable." The court did not vacate the rule during the remand. Two additional cases were decided after National Mining. In Chemical Manufacturers Ass'n v. EPA,(CMA) No. 89-1514 (D.C. Cir. Sept. 15, 1995), the court, in light of National Mining, vacated and remanded to EPA the federal enforceability component in the potential to emit definition in the PSD and NSR (40 C.F.R. parts 51 and 52) regulations. In Clean Air Implementation Project v. EPA, No. 96-1224 (D.C. Cir. June 28, 1996) (CAIP), the court vacated and remanded the federal enforceability requirement in the title V (40 C.F.R. part 70) regulations. The CMA and the CAIP orders were similar in that they contained no legal analysis by the court, but merely referred to the National Mining decision.

Before any of the above cases were decided, EPA implemented a "transitional" policy to allow sources to rely on state-only enforceable PTE limits. “Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)” (Jan. 25, 1995), available at <http://www.epa.gov/Region7/programs/artd/air/title5/t5memos/ptememo.pdf>. After the court decisions, EPA extended the transition policy several times. In the last extension, EPA stated that the portion of the policy that allowed sources to rely on state-only enforceable limits on PTE would remain in place until such time as EPA completed a rulemaking responding to the three court decisions discussed above. See "Third Extension of January 25, 1995 Potential to Emit Transition Policy" (December 20, 1999), available at <http://www.epa.gov/Region7/programs/artd/air/title5/t5memos/4thext.pdf>. At this time, EPA anticipates proposing a PTE rule in 2006, and completing the rulemaking in

2007. See OMB Report entitled "Regulatory Reform of the U.S. Manufacturing Sector A Summary of Agency Responses to Public Reform Nominations" at 37 (Mar. 9, 2005), available at http://www.whitehouse.gov/omb/inforeg/reports/manufacturing_initiative.pdf.

The CAA treats the regulation of major sources and area sources differently. Generally, major source categories are listed under section 112(c)(1), while area source categories are listed under section 112(c)(3) following a finding that either the source category presents a threat of adverse human health or environmental effects that warrants regulation under section 112, or that the category falls within the purview of CAA section 112(k)(3)(B). See CAA section 112(c)(1) and (3). Standards for major sources are based on the maximum achievable control technology (MACT) currently being achieved in the industry. Standards for area sources may be based on MACT, but alternatively may be based on generally available control technology (GACT). See CAA section 112(d)(2) and (5). Many source categories currently have only major source MACT standards, without a corresponding area source standard.

As a result, some major sources may choose to become area sources to avoid major source MACT, or even avoid regulation altogether if there are no applicable area source standards. Major sources may achieve significant HAP emission reductions through pollution prevention (P2) measures, installation of emission control systems, or a combination of both to attain area source emission levels. However, a major source may achieve area source status only by taking limitations on its potential to emit HAP emissions to keep those emissions below major source thresholds. See CAA section 112(a)(1) (defining major source HAP thresholds); 40 CFR 63.2 (same).

A significant question that arose early in the development of the MACT standards program was when major sources may limit their PTE to below the major source thresholds, thereby effectively avoiding having to comply with major source MACT

standards. The EPA issued guidance on this and related issues on May 16, 1995, in a memorandum from John Seitz, Director of the Office of Air Quality Planning and Standards, to the EPA regional air division directors. The May 1995 memorandum addressed three issues:

- “By what date must a facility limit its potential to emit if it wishes to avoid major source requirements of a MACT standard?”
- “Is a facility that is required to comply with a MACT standard permanently subject to that standard?”
- “In the case of facilities with two or more sources in different source categories: If such a facility is a major source for purposes of one MACT standard, is the facility necessarily a major source for purposes of subsequently promulgated MACT standards?”

In the May 1995 memorandum, EPA took the policy position that the latest date a source could obtain area source status by limiting its PTE would be the first substantive compliance date of an applicable MACT standard. For existing sources, this would be no later than 3 years after the effective date of the regulation (which for MACT standards is the date of publication in the Federal Register), but could be sooner; for example, some standards for leaking equipment must be complied with by 6 months after the effective date of the regulation.

Furthermore, in the May 16, 1995, memorandum, EPA stated that once a source was required to comply with a MACT standard, it must always comply, even though the standard may reduce HAP emissions from the source to below major source thresholds.

Finally, the May 16, 1995 memorandum provided that a source that is major for one MACT standard would not be considered major for a subsequent MACT standard if the potential to emit HAP emissions were reduced to below major source levels by complying with the first MACT standard.

The 1995 memorandum, on which we did not seek notice and comment, set forth transitional policy guidance and expressly stated that at some future point the part 63 General Provisions would be amended to address the issue of “once in, always in.” We are today proposing to amend the General Provisions and replace the 1995 policy memorandum.

III. Rationale for the Proposed Amendments

Since the policy was announced, EPA has received numerous requests for exceptions from and interpretations of the OIAI policy. Some have questioned the policy and have suggested changes to it. In August 2000, EPA met with representatives of the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) to explore ways to revise the OIAI policy to promote P2. The STAPPA/ALAPCO was concerned that after the first substantive compliance date of a MACT standard, sources would be discouraged from exploring P2 measures if there were no benefits to be gained, e.g., reduced monitoring, recordkeeping, and reporting, or no opportunity to get out of major source requirements, and recommended we revise the policy to encourage P2. To accommodate some of these P2 concerns, we proposed to amend the part 63 General Provisions (68 FR 26249; May

15, 2003) to encourage P2 by (1) allowing an affected source to get out of major source MACT requirements if it completely eliminated all HAP using P2, or (2) allowing a source to have alternative monitoring, recordkeeping and reporting if P2 measures resulted in emission reductions at least as stringent as those required by the MACT standard. We have not finalized these proposed amendments.

Others also have pointed out that the OIAI policy serves as a disincentive for sources to reduce HAP emissions. For example, one source whose emission levels after applying MACT were still above major source thresholds, has significant emissions of one HAP for which the MACT standard does not require reductions. The source has indicated it is willing to substantially reduce that HAP to achieve area source status, but would not do so as long as the OIAI policy applied and the source could not be redesignated as an area source. Another source, which has maintained actual HAP emissions well below major source levels, discovered its PTE limit was based on an erroneous emission factor. Even though actual emissions have always been below major source levels, its PTE, when recalculated using the correct emission factors, exceeded the major source threshold. In both examples, the source did not realize its problem until after the first substantive compliance date, and was thus subject to once in, always in. Moreover, the policy as written does not encourage sources to explore the use of different control techniques, P2, or new and emerging technologies that would result in lower emissions.

Most MACT standards apply only to major sources and several source categories have different standards for major and area sources. When a source's PTE is less than major source levels, it falls outside of the applicability criteria for being subject to major

source MACT. The CAA does not specifically address when this can occur or why. A major source, therefore, could initially be subject to a MACT standard, apply MACT, and in doing so become an area source. Currently, a major source that is subject to a MACT standard may become an area source prior to its first compliance date with the MACT standard without reaching MACT levels; for example, a source emitting 30 tpy of HAP could reduce emissions by 5 tons, take a HAP PTE limitation, and become an area source. The same source may reduce its emissions by 25 tpy after the first compliance date of a MACT standard, but because the first compliance date had passed, the source would have to continue to comply with the MACT standard. The only difference is the imposition of a date before which reductions must be achieved to avoid MACT.

There is nothing in the statute which compels the conclusion that a source cannot attain area source status after the first compliance date of a MACT standard. For the reasons noted herein, we believe that if a source does not meet the applicability criteria in a major source MACT standard, the major source standard should no longer apply to it. Consequently, on further consideration of the 1995 policy, we propose that under the CAA an area source is not subject to major source standards, regardless of when or how the source becomes an area source, and we are therefore proposing today's amendments to the General Provisions which would replace the OIAI 1995 policy.

A concern has been raised that sources that are currently well below the major source threshold will increase emissions to a point just below the threshold. We believe these concerns are unfounded. While this may occur in some instances, it is more likely that sources will adopt PTE limitations at or near their current levels to avoid negative

publicity and to maintain their appearance as responsible businesses. Permitting authorities likewise will encourage emissions reduction maintenance and in some cases regulations implementing other provisions of the CAA may prevent such increases. We believe that any increases that may occur would be offset by the incentives that eliminating the OIAI policy will create for sources to do more than otherwise required in order to become area sources. We specifically solicit comment on this issue. Please include in your comments any factual information or likely scenarios under which sources may increase emissions but remain area sources.

As noted above, the May 16, 1995 memorandum indicated that EPA would in the future issue regulations concerning the application of MACT standards. Today's proposed amendments meet that intent. The 1995 memorandum itself did not undergo notice and comment or formal rulemaking, was meant to provide our interpretation to answer pressing questions at that time, and was intended to remain in effect until such time as we proposed and promulgated amendments to the General Provisions.

For the reasons discussed above, we believe the policy should be replaced and today are proposing to allow a major source to become an area source at any time by taking PTE limits on its HAP emissions.² We are therefore proposing to amend section

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Nothing precludes the Agency from reversing a prior agency position where, as here, we have a principled basis for doing so. As the Supreme Court recently observed:

“An initial agency interpretation is not instantly carved in stone. On the contrary, the agency . . . must consider varying interpretations and the wisdom of its policy on a continuing basis, *Chevron, supra* at 863-64, for example, in response to changed factual circumstances, or a change in administrations.”

63.1 by adding a new paragraph (c)(6). That paragraph would specify that a major source may become an area source at any time by restricting its potential to emit (PTE) hazardous air pollutants. See footnote 1 (discussing PTE generally and EPA's transitional policy that allows sources to rely on state-only enforceable limits). If the source takes such limits it will no longer be subject to major source requirements that apply to HAP emissions, subject to certain restrictions. These requirements would include major source MACT standards, compliance assurance monitoring, and even title V requirements if the source was not subject to title V permitting for any other reason. The source would, however, be subject to any section 112 requirements for area sources.

Most, if not all, permitting authorities have created and instituted enforceable permitting mechanisms such as federally enforceable state operating permits or conditional major operating permits, in lieu of title V permits, that allow sources to limit their potential to emit HAP emissions so as to avoid having to comply with major source requirements of one type or another. Some of these mechanisms were created to establish PTE limits at sources prior to the first substantive compliance date of a MACT standard to allow a source to be designated as an area source. The same mechanisms can be used to

National Cable & Telecomms. Ass'n v. Brand X Internet Servs., 125 S. Ct. 2688, 2700 (2005) (citations omitted); *see also American Trucking Ass'n v. Atchison, Topeka & Santa Fe Ry.*, 387 U.S. 397, 416 (1967).

establish such PTE for HAP emissions at any point in time. These permitting mechanisms are practicably enforceable in that they provide for sufficient monitoring, recordkeeping, and reporting, as necessary, to ensure that the sources do not exceed their PTEs. See footnote 1.

We do not intend to allow major sources that are subject to enforcement actions or investigations to avoid the consequences of such actions by becoming area sources. Although such sources may still seek area source status, they are not absolved of previous or pending violations while they were major, and must bear the consequences of any enforcement action or remedy imposed upon it as a result of resolving outstanding issues, which could include fines or imposition of additional emission reduction measures.

We also do not intend to allow existing affected sources at facilities that have attained area source status through PTE limitations after the first substantive compliance date of a MACT standard to subsequently switch back to major source status and avoid having to meet the MACT standard for up to an additional 3 years (the amount of time generally allowed in MACT standards for existing sources to attain compliance) unless the existing affected source actually underwent physical change in order to change the process or to install air pollution control equipment. The proposed amendments thus would allow additional time for the existing affected source to comply if physical modifications were necessary or additional equipment needed to be installed to meet the applicable major source MACT standard. The source would make the request for additional time and detail the reasons for the request in its permit application. The permitting authority would assess the source's request to determine how much additional

time (up to 3 years) to grant the source to come into compliance. This situation is very similar to that addressed in §63.6(c)(5), except that these sources were once already subject to major source MACT and may not need as much time to comply as those area sources never before subject to major source MACT. Conversely, if an area source had PTE limits in place that simply restricted production or hours of operation, and subsequently wanted to increase production or operating hours without needing to physically make changes or install controls, the permitting authority should expect and require immediate compliance upon removal of the PTE limits. Unlike area sources that have never been major before, these sources were previously subject to major source MACT and should be able to comply immediately after the area source PTE limitations were removed. Some sources may also experience a mix of compliance dates. For example, a source previously subject to a MACT standard before becoming an area source would have controls in place and likely in operation. If that source wanted to expand production by adding new equipment to an existing affected source that needed additional controls, the permitting authority may require the unaffected portion of the source to comply immediately but grant additional time for the installation of additional controls for the expanded operation.

Likewise, a major source with affected sources subject to a major source MACT standard that switches to area source status for which the EPA has established equivalent or less stringent area source standards for the same affected sources would have to comply immediately with those area source standards if the first substantive compliance date has passed or would have to comply by the first substantive compliance date if it has not

passed. Because the area source standard would likely not be more stringent than the major source MACT standard that the source was meeting, the source may not need additional compliance time after the source status change. However, if additional controls were necessary to comply with requirements on emission points or pollutants not covered by the major source MACT standard, additional time, up to 3 years, may be granted the source for those situations.

In either of the situations described above, a source must notify the Administrator of any standards to which it becomes subject under §63.9(b).

Finally, we are proposing to amend each of the General Provisions applicability tables contained within most subparts of part 63 to add a reference to new paragraph 63.1(c)(6).

IV. Impacts of the Proposed Amendments

The environmental, economic, and energy impacts of the proposed amendments cannot be quantified without knowing which sources will avail themselves of this opportunity and what methods of HAP emission reductions will be used. It is unknown how many sources would choose to take permit conditions that would limit their PTE to below major source levels. Within this group it also is not known how many sources may increase their emissions from the NESHAP level (assuming the level is below the major source thresholds). Similarly we cannot identify or quantify the universe of sources that would decrease their HAP emissions to below the level required by the NESHAP to achieve area source status. We believe that many, if not most, sources that could reduce

HAP emissions to area source levels prior to the first substantive compliance date of a MACT standard have already done so. We solicit comment on potential impacts, specifically the number of potential and likely sources that may avail themselves of the approach provided for in today's proposal and additional emission reduction that may be achieved or increases that may occur; please provide any analysis in your comment. There is no requirement, however, that sources take advantage of the approach proposed today, and each source should assess its own situation to determine whether additional costs (to achieve additional emission reductions) would be beneficial to the source, in exchange for becoming an area source and the associated benefits.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or

planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" because it raises novel legal or policy issues arising out of legal mandates. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

The proposed amendments would impose no information collection requirements. Sources opting to become area sources may experience some reduction in reporting and recordkeeping requirements, as they would no longer be subject to major source requirements. Any changes in reporting or recordkeeping would be done through the permitting mechanisms of each permitting authority. It is not possible to identify how many sources would choose to employ these provisions, nor is it possible to determine what, if any changes, to reporting and recordkeeping would be made. Many permitting authorities may, in fact, choose to establish the NESHAP provisions themselves as the PTE limits and change little or nothing.

Furthermore, approval of an ICR is not required in connection with these proposed amendments. This is because the General Provisions do not themselves require any

reporting and recordkeeping activities, and no ICR was submitted in connection with their original promulgation or their subsequent amendment. Any recordkeeping and reporting requirements are imposed only through the incorporation of specific elements of the General Provisions in the individual MACT standards which are promulgated for particular source categories which have their own ICRs.

The Office of Management and Budget has previously approved the information collection requirements contained in the existing regulations of 40 CFR part 63 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, et seq. A copy of the OMB approved Information Collection Request (ICR) for any of the existing regulations may be obtained from Susan Auby, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW, Washington, DC 20460, or by calling (202) 566-1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any proposed rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For purposes of assessing the impacts of the proposed amendments on small entities, small entity is defined as: (1) A small business as defined in each applicable subpart; (2) a government jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and that is not dominant in its field.

After considering the economic impacts of the proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives which minimize any significant economic impact on a substantial number of small entities (5 U.S.C. 603-604). Thus, an agency may certify that a rule will not have a significant

economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

Small entities that are subject to MACT standards would not be required to take any action under this proposal; any action a source takes to become reclassified as an area source would be voluntary. In addition, we expect that any sources using these provisions will experience cost savings that will outweigh any additional cost of achieving area source status.

The only mandatory cost that would be incurred by air pollution control agencies would be the cost of reviewing sources' permit applications for area source status and issuing permits. No small governmental jurisdictions operate their own air pollution control agencies, so none would be required to incur costs under the proposal. In addition, any costs associated with these application reviews and permit issuance are expected to be offset by reduced agency oversight obligations for sources that no longer must meet major source requirements.

Based on the considerations above, we have concluded that the proposed amendments will relieve regulatory burden for all affected small entities. Nevertheless, we continue to be interested in the potential impacts of the proposed amendments on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their

regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the proposed amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Sources subject to

MACT standards would not be required to take any action under this proposal, including sources owned or operated by State, local, or tribal governments; the provisions in these amendments are strictly voluntary. In addition, the proposed amendments are expected to result in reduced burden on any source that achieves area source status. Under the proposed amendments, a State, local, or tribal air pollution control agency to which we have delegated section 112 authority would be required to review permit applications and make modifications to the permit as necessary. However, most applications would not be lengthy or complicated, and costs would not approach the \$100 million annual threshold. In addition, any costs associated with these reviews are expected to be offset by reduced agency oversight obligations for sources that no longer must meet major source requirements. Thus, the proposed amendments are not subject to the requirements of sections 202 and 205 of UMRA. EPA has determined that the proposed amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Thus, the proposed amendments are not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.”

These proposed amendments do not have federalism implications. They 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, as specified in Executive Order 13132. Although the proposed amendments would require State air pollution control agencies to review and modify permits as appropriate, the burden on States will not be substantial. In addition, we expect that the overall effect of the proposed amendments will be to reduce the burden on State agencies as their oversight obligations become less demanding for sources no longer subject to major source requirements. Thus, Executive Order 13132 does not apply to these proposed amendments.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on these proposed amendments from State and local officials.

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

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have

“substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes.”

These proposed amendments do not have tribal implications, as specified in Executive Order 13175. They 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. Any tribal government that owns or operates a source subject to MACT standards would not be required to take any action under this proposal; the provisions in the proposed amendments would be strictly voluntary. In addition, achieving area source status would result in reduced burden on any source that no longer must meet major source requirements. Under the proposed amendments, a tribal government with an air pollution control agency to which we have delegated section 112 authority would be required to review permit applications and to modify permits as necessary. However, such reviews are not expected to be lengthy or complicated, so the effects will not be substantial. In addition, any costs associated with these reviews are expected to be offset by reduced agency oversight obligations for sources no longer required to meet major source requirements. Thus, Executive Order 13175 does not apply to these proposed amendments.

However, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Indian tribes, EPA specifically solicits comment on the proposed amendments from tribal officials.

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

Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. These proposed amendments are not subject to Executive Order 13045 because all MACT standards governed by the General Provisions are based on technology performance and not on health or safety risks.

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

The proposed amendments are not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we believe that the proposed amendments are not likely to have any adverse energy impacts.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act

**National Emission Standards for Hazardous Air Pollutants:
General Provisions -
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(NTTAA) of 1995, Public Law 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

These proposed amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed amendments, and specifically invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in the proposed amendments.

List of Subjects in 40 CFR Part 63

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

Dated:

Stephen L. Johnson,
Acting Administrator

For the reasons cited in the preamble, title 40, chapter 1 of the Code of Federal Regulations is proposed to be amended as follows:

Part 63–[Amended]

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

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

Subpart A–[Amended]

2. Section 63.1 is amended by adding a new paragraph (c)(6) to read as follows:

§63.1 Applicability

* * * * *

(c) * * *

(6) A major source, as defined in this subpart, may become an area source at any time by limiting its potential to emit (PTE) hazardous air pollutants below the major source thresholds, subject to the restrictions in subparagraphs (i) through (iii) of this paragraph. Once these PTE limits are in effect, the source is no longer subject to requirements that apply to major sources of hazardous air pollutants, and is subject only to any applicable requirements for area sources.

(i) A major source subject to an enforcement action or investigation for major source violations or infractions may not avoid such actions or investigations, or their consequences or remedies, by becoming an area source.

(ii) A major source that becomes an area source by limiting its PTE must meet all applicable area source requirements for those affected sources previously subject to major source standards promulgated under this part immediately upon becoming an area source,

provided the first substantive compliance date for the area source standard has passed, except that the permitting authority may grant additional time for the source (or portion thereof) to comply, up to 3 years, if the source undergoes physical changes or must install additional control equipment in order to comply. Area sources not previously subject to area source standards must comply with the notification requirements of §63.9(b).

(iii) A major source subject to standards under this part that has become an area source by limiting its PTE and then increases its PTE through permit revisions to major source levels must comply immediately with major source requirements of this part to which it was previously subject, notwithstanding §63.6(c)(5), except that the permitting authority may grant additional time for the source (or portion thereof) to comply, up to 3 years, if the source undergoes physical changes or must install additional control equipment in order to comply. The request and basis for additional time must be detailed in the source's permit application. Such major sources must comply with the notification requirements of §63.9(b).

* * * * *

3. Section 63.6 is amended by revising the second sentence in paragraph (c)(5) to read as follows:

§63.6 Compliance with standards and maintenance requirements.

* * * * *

(c) * * *

(5) * * * Except as provided in §63.1(c)(6)(iii) such sources must comply by the date specified in the standards for existing area sources that become major sources. * * *

* * * * *

4. Section 63.9 is amended by adding a sentence to paragraph (b)(ii) to read as follows:

§63.9 Notification requirements.

* * * * *

(b) * * *

(1)(i) * * *

(ii) * * * Area sources previously subject to major source requirements that again become major sources are also subject to the notification requirements of this paragraph.

* * * * *

Subpart F–[Amended]

5. Table 3 to subpart F of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 3 to Subpart F of Part 63–General Provisions Applicability to Subparts F, G, and H to Subpart F

Reference	Applies to subparts F, G, and H	Comment
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63.1(c)(6)...	Yes.	
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Subpart N–[Amended]

6. Table 1 to subpart N of part 63 is amended by adding a citation to §63.1(c)(6)

to read as follows:

Table 1 to Subpart N of Part 63–General Provisions Applicability to Subpart N

General Provisions Reference	Applies to subpart N	Comment

63.1(c)(6)...	Yes	

Subpart O–[Amended]

7. Table 1 to section 63.360 is amended by adding a citation to §63.1(c)(6) to read as follows:

§63.360 Applicability.

(a) * * *

Table 1 of Section 63.360—General Provisions Applicability to Subpart O

Reference	Applies to sources using 10 tons in subpart O ^a	Applies to sources using 1 to 10 tons in subpart O ^a	Comment

63.1(c)(6).....	Yes		

* * * * *

Subpart R–[Amended]

8. Table 1 to subpart R of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart R of Part 63–General Provisions Applicability to Subpart R

Reference	Applies to subpart R	Comment

63.1(c)(6)...	Yes	

Subpart S–[Amended]

9. Table 1 to subpart S of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart S of Part 63–General Provisions Applicability to Subpart S^a

Reference	Applies to subpart S	Comment

63.1(c)(6)...	Yes	

Subpart T–[Amended]

10. Appendix B to subpart T of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Appendix B to Subpart T of Part 63–General Provisions Applicability to Subpart T

Reference	Applies to subpart T	Comments
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	BCC	BVI
63.1(c)(6)...	Yes.....	Yes.....

* * * * *

Subpart U–[Amended]

11. Table 1 to subpart U of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart U of Part 63–Applicability of General Provisions to Subpart U Affected Sources

Reference	Applies to subpart U	Explanation
§63.1(c)(6)...	Yes	

* * * * *

Subpart W–[Amended]

12. Table 1 to subpart W of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart W of Part 63—General Provisions Applicability to Subpart W

Reference	Applies to subpart W			Comment
	BLR	WSR	WSR alternative standard, and BLR equipment leak standard (40 CFR part 63, subpart H)	

§63.1(c)(6)..	Yes....	Yes....	Yes.....	

Subpart Y–[Amended]

13. Table 1 of section 63.560 is amended by adding a citation to §63.1(c)(6) to read as follows:

§63.560 Applicability and designation of affected sources.

* * * * *

Table 1 of Section 63.560–General Provisions Applicability to Subpart Y

Reference	Applies to affected sources in subpart Y	Comment

63.1(c)(6)...	Yes	

Subpart AA–[Amended]

14. Appendix A to subpart AA of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Appendix A to Subpart AA of Part 63–Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart AA

40 CFR citation	Requirement	Applies to subpart AA	Comment

63.1(c)(6)...	Yes.	

Subpart BB–[Amended]

15. Appendix A to subpart BB of part 63 is amended by adding a citation to

§63.1(c)(6) to read as follows:

Appendix A to Subpart BB of Part 63–Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart BB

40 CFR citation	Requirement	Applies to subpart BB	Comment

63.1(c)(6)...	Yes.	

Subpart CC–[Amended]

16. Table 6 to subpart CC of part 63 is amended by adding a citation to

§63.1(c)(6) to read as follows:

Table 6–General Provisions Applicability to Subpart CC^a

Reference	Applies to subpart CC	Comment

63.1(c)(6)...	Yes	

Subpart DD–[Amended]

17. Table 2 to subpart DD of part 63 is amended by adding a citation to

§63.1(c)(6) to read as follows:

Table 2 to Subpart DD of Part 63–Applicability of Paragraphs in Subpart A of this Part 63--General Provisions to Subpart DD

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Subpart A Reference	Applies to subpart DD	Explanation

63.1(c)(6)...	Yes	

* * * * *

Subpart EE–[Amended]

18. Table 1 to subpart EE of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart EE of Part 63–Applicability of General Provisions to Subpart EE

Reference	Applies to subpart EE	Comment

63.1(c)(6)...	Yes.	

Subpart GG–[Amended]

19. Table 1 to subpart GG of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart GG of Part 63–General Provisions Applicability to Subpart GG

Reference	Applies to affected sources in subpart GG	Comment

63.1(c)(6)...	Yes	

Subpart HH–[Amended]

20. Table 2 to subpart HH of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart HH of Part 63–Applicability of 40 CFR Part 63 General Provisions to Subpart HH

General Provisions Reference	Applies to subpart HH	Explanation
§63.1(c)(6)...	Yes	

Subpart JJ–[Amended]

21. Table 1 to subpart JJ of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart JJ of Part 63–General Provisions Applicability to Subpart JJ

Reference	Applies to subpart JJ	Comment
63.1(c)(6)...	Yes	

Subpart KK–[Amended]

22. Table 1 to subpart KK of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart KK of Part 63–Applicability of General Provisions to Subpart KK

General Provisions Reference	Applicable to subpart KK	Comment

§63.1(c)(6)...	Yes.	

Subpart MM–[Amended]

23. Table 1 to subpart MM of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart MM of Part 63–General Provisions Applicability to Subpart MM

Reference	Summary of requirements	Applies to subpart MM	Explanation

63.1(c)(6)...	Becoming an area source.	Yes.	

Subpart DDD–[Amended]

24. Table 1 to subpart DDD of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart MM of Part 63–General Provisions Applicability to Subpart MM

General Provisions Citation	Requirement	Applies to subpart DDD?	Explanation

63.1(c)(6)...	Yes.
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Subpart GGG–[Amended]

25. Table 1 to subpart GGG of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart GGG of Part 63–General Provisions Applicability to Subpart GGG

General Provisions reference	Summary of requirements	Applies to subpart GGG	Comments
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63.1(c)(6)...	Becoming an area source.	Yes.	
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Subpart HHH–[Amended]

26. Table 2 to subpart HHH of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart HHH of Part 63–Applicability of 40 CFR Part 63 General Provisions to Subpart HHH

General Provisions Reference	Applies to subpart HHH	Explanation
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§63.1(c)(6).....	Yes	
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Subpart JJJ–[Amended]

27. Table 1 to subpart JJJ of part 63 is amended by adding a citation to §63.1(c)(6)

to read as follows:

Table 1 to Subpart JJJ of Part 63–Applicability of 40 CFR Part 63 General Provisions to Subpart JJJ Affected Sources

Reference	Applies to subpart JJJ	Explanation

§63.1(c)(6)...	Yes	

* * * * *

Subpart LLL–[Amended]

28. Table 1 to subpart LLL of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart LLL of Part 63–Applicability of General Provisions

Citation	Requirement	Applies to subpart LLL	Explanation

63.1(c)(6)...	Yes.	

Subpart MMM–[Amended]

29. Table 1 to subpart MMM of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart MMM of Part 63–General Provisions Applicability to Subpart MMM

Reference to subpart A	Applies to subpart MMM	Explanation
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§63.1(c)(6)...	Yes	
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Subpart NNN–[Amended]

30. Table 1 to subpart NNN of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart NNN of Part 63–Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart NNN

General provisions citation	Requirement	Applies to subpart NNN	Explanation
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63.1(c)(6)...	Yes.	
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Subpart OOO–[Amended]

31. Table 1 to subpart OOO of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart OOO of Part 63–Applicability of General Provisions to Subpart OOO Affected Sources

Reference	Applies to subpart OOO	Explanation
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63.1(c)(6)...	Yes	
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Subpart PPP–[Amended]

32. Table 1 to subpart PPP of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart PPP of Part 63–Applicability of General Provisions to Subpart PPP Affected Sources

Reference	Applies to subpart PPP	Explanation
63.1(c)(6)...	Yes.	

Subpart RRR–[Amended]

33. Appendix A to subpart RRR of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Appendix A to Subpart RRR of Part 63–General Provisions Applicability to Subpart RRR

Citation	Requirement	Applies to RRR	Comment
§63.1(c)(6)..	Yes.	

Subpart VVV–[Amended]

34. Table 1 to subpart VVV of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 1 to Subpart VVV of Part 63—Applicability of 40 CFR Part 63 General Provisions to Subpart VVV

General provisions reference	Applicable to subpart VVV	Explanation

§63.1(c)(6)...	Yes.....	

Subpart HHHH—[Amended]

35. Table 2 to subpart HHHH of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart HHHH of Part 63—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart HHHH

* * * * *

Citation	Requirement	Applies to HHHH	Explanation

§63.1(c)(6)..	Yes.	

Subpart IIII—[Amended]

36. Table 2 to subpart IIII of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart IIII of Part 63–Applicability of General Provisions to Subpart IIII of Part 63

* * * * *

Citation	Subject	Applicable to subpart IIII	Explanation

§63.1(c)(6)..	Becoming an area source	Yes.	

Subpart JJJJ–[Amended]

37. Table 2 to subpart JJJJ of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart JJJJ of Part 63–Applicability of 40 CFR Part 63 General Provisions to Subpart JJJJ

* * * * *

General provisions reference	Applicable to subpart JJJJ	Explanation

§63.1(c)(6)...	Yes.	

Subpart KKKK–[Amended]

38. Table 5 to subpart KKKK of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 5 to Subpart KKKK of Part 63–Applicability of General Provisions to Subpart KKKK

* * * * *

Citation	Subject	Applicable to	Explanation
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		subpart KKKK	

§63.1(c)(6)..	Becoming an area source	Yes.	

Subpart MMMM–[Amended]

39. Table 2 to subpart MMMM of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart MMMM of Part 63–Applicability of General Provisions to Subpart MMMM of Part 63

* * * * *

Citation	Subject	Applicable to subpart III	Explanation

§63.1(c)(6)..	Becoming an area source	Yes.	

Subpart NNNN–[Amended]

40. Table 2 to subpart NNNN of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart NNNN of Part 63–Applicability of General Provisions to Subpart NNNN

* * * * *

Citation	Subject	Applicable to subpart NNNN	Explanation

§63.1(c)(6)..	Becoming an area source	Yes.	
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Subpart OOOO–[Amended]

41. Table 3 to subpart OOOO of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 3 to Subpart OOOO of Part 63–Applicability of General Provisions to Subpart OOOO

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Citation	Subject	Applicable to subpart OOOO	Explanation
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§63.1(c)(6)..	Becoming an area source	Yes.	
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Subpart PPPP–[Amended]

42. Table 2 to subpart PPPP of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart PPPP of Part 63–Applicability of General Provisions to Subpart PPPP of Part 63

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Citation	Subject	Applicable to subpart PPPP	Explanation
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§63.1(c)(6)..	Becoming an area source	Yes.	
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Subpart QQQQ–[Amended]

43. Table 4 to subpart QQQQ of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 4 to Subpart QQQQ of Part 63–Applicability of General Provisions to Subpart QQQQ of Part 63

* * * * *

Citation	Subject	Applicable to subpart QQQQ	Explanation
§63.1(c)(6)..	Becoming an area source	Yes.	

Subpart RRRR–[Amended]

44. Table 2 to subpart RRRR of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart RRRR of Part 63–Applicability of General Provisions to Subpart RRRR

* * * * *

Citation	Subject	Applicable to subpart	Explanation
§63.1(c)(6)..	Becoming an area source	Yes.	

Subpart SSSS–[Amended]

45. Table 2 to subpart SSSS of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 2 to Subpart SSSS of Part 63—Applicability of General Provisions to Subpart SSSS
* * * * *

General provisions reference	Applicable to subpart SSSS	Explanation

§63.1(c)(6).....	Yes.	

Subpart VVVV—[Amended]

46. Table 8 to subpart VVVV of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 8 to Subpart VVVV of Part 63—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart VVVV
* * * * *

Citation	Requirement	Applies to subpart VVVV	Explanation

§63.1(c)(6)..	Yes.	

Subpart WWWW—[Amended]

47. Table 15 to subpart WWWW of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 15 to Subpart WWWW of Part 63—Applicability of General Provisions (Subpart A)

to Subpart WWWW of Part 63

* * * * *

The general provisions reference...	That addresses...	And applies to subpart WWWW of part 63...	Subject to the following additional information...
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§63.1(c)(6)..	Becoming an area source	Yes.	
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Subpart AAAAA–[Amended]

48. Table 8 to subpart AAAAA of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 8 to Subpart AAAAA of Part 63–Applicability of General Provisions to Subpart AAAAA

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Citation	Summary of requirement	Am I subject to this requirement?	Explanation
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§63.1(c)(6)..	Becoming an area source	Yes.	
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Subpart PPPPP–[Amended]

49. Table 7 to subpart PPPPP of part 63 is amended by adding a citation to §63.1(c)(6) to read as follows:

Table 7 to Subpart PPPPP of Part 63–Applicability of General Provisions to Subpart PPPPP

* * * * *

Citation	Subject	Brief description	Applies to subpart
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			PPPP
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§63.1(c)(6)..	Applicability	Becoming an area source	Yes.
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