Federal Revision Date: September 13, 2010

Subpart A - General Provisions

§ 61.01 Lists of pollutants and applicability of part 61.

(a) The following list presents the substances that, pursuant to section 112 of the Act, have been designated as hazardous air pollutants. The Federal Register citations and dates refer to the publication in which the listing decision was originally published.

Asbestos (36 FR 5931; Mar. 31, 1971)

Benzene (42 FR 29332; June 8, 1977)

Beryllium (36 FR 5931; Mar. 31, 1971)

Coke Oven Emissions (49 FR 36560; Sept. 18, 1984)

Inorganic Arsenic (45 FR 37886; June 5, 1980)

Mercury (36 FR 5931; Mar. 31, 1971)

Radionuclides (44 FR 76738; Dec. 27, 1979)

Vinyl Chloride (40 FR 59532; Dec. 24, 1975)

(b) The following list presents other substances for which a Federal Register notice has been published that included consideration of the serious health effects, including cancer, from ambient air exposure to the substance.

Acrylonitrile (50 FR 24319; June 10, 1985)

1,3-Butadiene (50 FR 41466; Oct. 10, 1985)

Cadmium (50 FR 42000; Oct. 16, 1985)

Carbon Tetrachloride (50 FR 32621; Aug. 13, 1985)

Chlorinated Benzenes (50 FR 32628; Aug. 13, 1985)

Chlorofluorocarbon—113 (50 FR 24313; June 10, 1985)

Chloroform (50 FR 39626; Sept. 27, 1985)

Chloroprene (50 FR 39632; Sept. 27, 1985)

Chromium (50 FR 24317; June 10, 1985)

Copper (52 FR 5496; Feb. 23, 1987)

Epichlorohydrin (50 FR 24575; June 11, 1985)

Ethylene Dichloride (50 FR 41994; Oct. 16, 1985)

Ethylene Oxide (50 FR 40286; Oct. 2, 1985)

Hexachlorocyclopentadiene (50 FR 40154; Oct. 1, 1985)

Manganese (50 FR 32627; Aug. 13, 1985)

Methyl Chloroform (50 FR 24314; June 10, 1985)

Methylene Chloride (50 FR 42037; Oct. 17, 1985)

Nickel (51 FR 34135; Sept. 25, 1986)

Perchloroethylene (50 FR 52800; Dec. 26, 1985)

Phenol (51 FR 22854; June 23, 1986)

Polycyclic Organic Matter (49 FR 31680; Aug. 8, 1984)

Toluene (49 FR 22195; May 25, 1984)

Trichloroethylene (50 FR 52422; Dec. 23, 1985)

Vinylidene Chloride (50 FR 32632; Aug. 13, 1985)

Zinc and Zinc Oxide (52 FR 32597, Aug. 28, 1987)

(c) This part applies to the owner or operator of any stationary source for which a standard is prescribed under this part.

(d) In addition to complying with the provisions of this part, the owner or operator of a stationary source subject to a standard in this part may be required to obtain an operating permit issued to stationary sources by an authorized State air pollution control agency or by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to title V of the Clean Air Act (Act) as amended November 15, 1990 (42 U.S.C. 7661). For more information about obtaining an operating permit see part 70 of this chapter.

[50 FR 46290, Nov. 7, 1985, as amended at 51 FR 7715 and 7719, Mar. 5, 1986; 51 FR 11022, Apr. 1, 1986; 52 FR 37617, Oct. 8, 1987; 59 FR 12429, Mar. 16, 1994]

§ 61.02 Definitions.

The terms used in this part are defined in the Act or in this section as follows:

Act means the Clean Air Act (42 U.S.C. 7401 *et seq.*).

Administrator means the Administrator of the Environmental Protection Agency or his authorized representative.

Alternative method means any method of sampling and analyzing for an air pollutant which is not a reference method but which has been demonstrated to the Administrator's satisfaction to produce results adequate for the Administrator's determination of compliance.

Approved permit program means a State permit program approved by the Administrator as meeting the requirements of part 70 of this chapter or a Federal permit program established in this chapter pursuant to title V of the Act (42 U.S.C. 7661).

Capital expenditure means an expenditure for a physical or operational change to a stationary source which exceeds the product of the applicable “annual asset guideline repair allowance percentage” specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the stationary source's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to a stationary source must not be reduced by any “excluded additions” as defined for stationary sources constructed after December 31, 1981, in IRS Publication 534, as would be done for tax purposes. In addition, “annual asset guideline repair allowance” may be used even though it is excluded for tax purposes in IRS Publication 534.

Commenced means, with respect to the definition of “new source” in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

Compliance schedule means the date or dates by which a source or category of sources is required to comply with the standards of this part and with any steps toward such compliance which are set forth in a waiver of compliance under §61.11.

Construction means fabrication, erection, or installation of an affected facility.

Effective date is the date of promulgation in the Federal Register of an applicable standard or other regulation under this part.

Existing source means any stationary source which is not a new source.

Force majeure means, for purposes of §61.13, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

Issuance of a part 70 permit will occur, if the State is the permitting authority, in accordance with the requirements of part 70 of this chapter and the applicable, approved State permit program. When the EPA is the permitting authority, issuance of a title V permit occurs immediately after the EPA takes final action on the final permit.

Monitoring system means any system, required under the monitoring sections in applicable subparts, used to sample and condition (if applicable), to analyze, and to provide a record of emissions or process parameters.

New source means any stationary source, the construction or modification of which is commenced after the publication in the Federal Register of proposed national emission standards for hazardous air pollutants which will be applicable to such source.

Owner or operator means any person who owns, leases, operates, controls, or supervises a stationary source.

Part 70 permit means any permit issued, renewed, or revised pursuant to part 70 of this chapter.

Permit program means a comprehensive State operating permit system established pursuant to title V of the Act (42 U.S.C. 7661) and regulations codified in part 70 of this chapter and applicable State regulations, or a comprehensive Federal operating permit system established pursuant to title V of the Act and regulations codified in this chapter.

Permitting authority means:

(1) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under part 70 of this chapter; or

(2) The Administrator, in the case of EPA-implemented permit programs under title V of the Act (42 U.S.C. 7661).

Reference method means any method of sampling and analyzing for an air pollutant, as described in appendix B to this part.

Run means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

Standard means a national emission standard including a design, equipment, work practice or operational standard for a hazardous air pollutant proposed or promulgated under this part.

Startup means the setting in operation of a stationary source for any purpose.

State means all non-Federal authorities, including local agencies, interstate associations, and State-wide programs, that have delegated authority to implement:

(1) The provisions of this part; and/or

(2) The permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

Stationary source means any building, structure, facility, or installation which emits or may emit any air pollutant which has been designated as hazardous by the Administrator.

Title V permit means any permit issued, renewed, or revised pursuant to Federal or State regulations established to implement title V of the Act (42 U.S.C. 7661). A title V permit issued by a State permitting authority is called a part 70 permit in this part.

[44 FR 55174, Sept. 25, 1979, as amended at 50 FR 46290, Nov. 7, 1985; 59 FR 12429, Mar. 16, 1994; 72 FR 27442, May 16, 2007]

§ 61.03 Units and abbreviations.

Used in this part are abbreviations and symbols of units of measure. These are defined as follows:

(a) System International (SI) units of measure:

A=ampere

g=gram

Hz=hertz

J=joule

K=degree Kelvin

kg=kilogram

m=meter

m^2 =square meter

m^3 =cubic meter

mg=milligram=10^{-3}gram

mm=millimeter=10^{-3}meter

Mg=megagram=10^6 gram

mol=mole

N=newton

ng=nanogram=10^{-9}gram

nm=nanometer=10^{-9}meter

Pa=pascal

s=second

V=volt

W=watt

Ω=ohm

µg=microgram=10^{-6}gram

(b) Other units of measure:

°C=degree Celsius (centigrade)

cfm=cubic feet per minute

cc=cubic centimeter

Ci=curie

d=day

°F=degree Fahrenheit

ft^2 =square feet

ft^3 =cubic feet

gal=gallon

in=inch

in Hg=inches of mercury

in H_2O=inches of water

l=liter

lb=pound

lpm=liter per minute

min=minute

ml=milliliter=10^{-3}liter

mrem=millirem=10^{-3}rem

oz=ounces

pCi=picocurie=10^{-12}curie

psig=pounds per square inch gage

°R=degree Rankine

µl=microliter=10^{-6}liter

v/v=volume per volume

yd^2 =square yards

yr=year

(c) Chemical nomenclature:

Be=beryllium

Hg=mercury

H_2O=water

(d) Miscellaneous:

act=actual

avg=average

I.D.=inside diameter

M=molar

N=normal

O.D.=outside diameter

%=percent

std=standard

[42 FR 51574, Sept. 29, 1977, as amended at 54 FR 51704, Dec. 15, 1989]

§ 61.04 Address.

(a) All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted in duplicate to the appropriate Regional Office of the U.S. Environmental Protection Agency to the attention of the Director of the Division indicated in the following list of EPA Regional Offices.

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Director, Air Management Division, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, MA 02203.

Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, Federal Office Building, 26 Federal Plaza (Foley Square), New York, NY 10278.

Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Director, Air Protection Division, Mail Code 3AP00, 1650 Arch Street, Philadelphia, PA 19103–2029.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Director, Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604–3590.

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas); Director; Air, Pesticides, and Toxics Division; U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, TX 75202.

Region VII (Iowa, Kansas, Missouri, Nebraska), Director, Air, RCRA, and Toxics Division, U.S. Environmental Protection Agency, 901 N. 5th Street, Kansas City, KS 66101.

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) Director, Air and Toxics Technical Enforcement Program, Office of Enforcement, Compliance and Environmental Justice, Mail Code 8ENF–AT, 1595 Wynkoop Street, Denver, CO 80202–1129.

Region IX (Arizona, California, Hawaii and Nevada; the territories of American Samoa and Guam; the Commonwealth of the Northern Mariana Islands; the territories of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Palmyra Atoll, and Wake Islands; and certain U.S. Government activities in the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau), Director, Air Division, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

Region X (Alaska, Idaho, Oregon, Washington), Director, Office of Air Quality, U.S. Environmental Protection Agency, 1200 Sixth Avenue (OAQ–107), Seattle, WA 98101.

(b) Section 112(d) of the Act directs the Administrator to delegate to each State, when appropriate, the authority to implement and enforce national emission standards for hazardous air pollutants for stationary sources located in such State. If the authority to implement and enforce a standard under this part has been delegated to a State, all information required to be submitted to EPA under paragraph (a) of this section shall also be submitted to the appropriate State agency (provided, that each specific delegation may exempt sources from a certain Federal or State reporting requirement). The Administrator may permit all or some of the information to be submitted to the appropriate State agency only, instead of to EPA and the State agency. If acceptable to both the Administrator and the owner or operator of a source, notifications and reports may be submitted on electronic media. The appropriate mailing address for those States whose delegation request has been approved is as follows:

(A) [Reserved]

(B) State of Alabama: Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, Alabama 36130–1463.

(C) State of Alaska.

(i) Alaska Department of Environmental Conservation (ADEC), 410 Willoughby Avenue, Suite 303, Juneau, AK 99801–1795, *http://www.state.ak.us/local/akpages/ENV.CONSERV/home.htm.*

(ii) See paragraph (c)(10) of this section for a table indicating the delegation status of National Emission Standards for Hazardous Air Pollutants for Region 10—Alaska, Idaho, Oregon, and Washington.

(D) Arizona:

Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007.

Maricopa County Air Quality Department, 1001 North Central Avenue, Suite 900, Phoenix, AZ 85004.

Pima County Department of Environmental Quality, 33 North Stone Avenue, Suite 700, Tucson, AZ 85701.

Pinal County Air Quality Control District, 31 North Pinal Street, Building F, Florence, AZ 85132.

Note: For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

(E) State of Arkansas: Chief, Division of Air Pollution Control, Arkansas Department of Pollution Control and Ecology, 8001 National Drive, P.O. Box 9583, Little Rock, AR 72209.

(F) California:

Amador County Air Pollution Control District, 12200–B Airport Road, Jackson, CA 95642.

Antelope Valley Air Quality Management District, 43301 Division Street, Suite 206, Lancaster, CA 93535.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

Butte County Air Quality Management District, 2525 Dominic Drive, Suite J, Chico, CA 95928.

Calaveras County Air Pollution Control District, 891 Mountain Ranch Road, San Andreas, CA 95249.

Colusa County Air Pollution Control District, 100 Sunrise Blvd., Suite A–3, Colusa, CA 95932–3246.

El Dorado County Air Quality Management District, 2850 Fairlane Court, Bldg. C, Placerville, CA 95667–4100.

Eastern Kern Air Pollution Control District, 2700 “M” Street, Suite 302, Bakersfield, CA 93301–2370.

Feather River Air Quality Management District, 1007 Live Oak Blvd., Suite B–3, Yuba City, CA 95991.

Glenn County Air Pollution Control District, 720 N. Colusa Street, P.O. Box 351, Willows, CA 95988–0351.

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514–3537.

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243–2801.

Lake County Air Quality Management District, 885 Lakeport Blvd., Lakeport, CA 95453–5405.

Lassen County Air Pollution Control District, 707 Nevada Street, Suite 1, Susanville, CA 96130.

Mariposa County Air Pollution Control District, P.O. Box 5, Mariposa, CA 95338.

Mendocino County Air Quality Management District, 306 E. Gobbi Street, Ukiah, CA 95482–5511.

Modoc County Air Pollution Control District, 619 North Main Street, Alturas, CA 96101.

Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392–2310.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

North Coast Unified Air Quality Management District, 2300 Myrtle Avenue, Eureka, CA 95501–3327.

Northern Sierra Air Quality Management District, 200 Litton Drive, Suite 320, P.O. Box 2509, Grass Valley, CA 95945–2509.

Northern Sonoma County Air Pollution Control District, 150 Matheson Street, Healdsburg, CA 95448–4908.

Placer County Air Pollution Control District, 3091 County Center Drive, Suite 240, Auburn, CA 95603.

Sacramento Metropolitan Air Quality Management District, 777 12th Street, Third Floor, Sacramento, CA 95814–1908.

San Diego County Air Pollution Control District, 10124 Old Grove Road, San Diego, CA 92131–1649.

San Joaquin Valley Air Pollution Control District, 1990 E. Gettysburg, Fresno, CA 93726.

San Luis Obispo County Air Pollution Control District, 3433 Roberto Court, San Luis Obispo, CA 93401–7126.

Santa Barbara County Air Pollution Control District, 260 North San Antonio Road, Suite A, Santa Barbara, CA 93110–1315.

Shasta County Air Quality Management District, 1855 Placer Street, Suite 101, Redding, CA 96001–1759.

Siskiyou County Air Pollution Control District, 525 So. Foothill Drive, Yreka, CA 96097–3036.

South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, CA 91765–4182.

Tehama County Air Pollution Control District, P.O. Box 8069 (1750 Walnut Street), Red Bluff, CA 96080–0038.

Tuolumne County Air Pollution Control District, 22365 Airport, Columbia, CA 95310.

Ventura County Air Pollution Control District, 669 County Square Drive, 2nd Floor, Ventura, CA 93003–5417.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616–4882.

Note: For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

(G) State of Colorado, Air Pollution Control Division, Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, CO 80246–1530.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

(H) State of Connecticut, Bureau of Air Management, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106.

(I) State of Delaware, Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

(J) District of Columbia, Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

(K) State of Florida: Florida Department of Environmental Protection, Division of Air Resources Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399–2400.

(L) State of Georgia: Georgia Department of Natural Resources, Environmental Protection Division, 2 Martin Luther King Jr. Drive, SE., Suite 1152 East Floyd Tower, Atlanta, Georgia 30334–9000.

(M) Hawaii:

Clean Air Branch, Hawaii Department of Health, 919 Ala Moana Blvd., Suite 203, Honolulu, HI 96814.

Note: For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

(N) State of Idaho.

(i) Idaho Department of Environmental Conservation (IDEQ), 1410 N. Hilton, Boise, ID 83706, *http://www2.state.id.us/deq/*.

(ii) See paragraph (c)(10) of this section for a table indicating the delegation status of National Emission Standards for Hazardous Air Pollutants for Region 10—Alaska, Idaho, Oregon, and Washington.

(O) State of Illinois: Illinois Environmental Protection Agency, 1021 North Grand Avenue East, Springfield, Illinois 62794.

(P) State of Indiana: Indiana Department of Environmental Management, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Q) State of Iowa: Iowa Department of Natural Resources, Environmental Protection Division, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, IA 50322.

(R) State of Kansas: Kansas Department of Health and Environment, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, KS 66612–1366.

(S) Commonwealth of Kentucky: Commonwealth of Kentucky, Energy and Environment Cabinet, Department of Environmental Protection, Division for Air Quality, 200 Fair Oaks Lane, 1st Floor, Frankfort, Kentucky 40610–1403.

Louisville Metro Air Pollution Control District, 850 Barret Avenue, Louisville, Kentucky 40204.

(T) State of Louisiana: Louisiana Department of Environmental Quality, P.O. Box 4301, Baton Rouge, Louisiana 70821–4301.

(U) State of Maine, Bureau of Air Quality Control, Department of Environmental Protection, State House, Station No. 17, Augusta, ME 04333.

(V) State of Maryland, Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

(W) Commonwealth of Massachusetts, Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 7th floor, Boston, MA 02108.

(X) State of Michigan: Michigan Department of Natural Resources and Environment Quality, Air Quality Division, P.O. 30028, Lansing, Michigan 48909.

(Y) State of Minnesota: Minnesota Pollution Control Agency, Division of Air Quality, 520 Lafayette Road North, St. Paul, Minnesota 55155.

(Z) State of Mississippi: Mississippi Department of Environmental Quality, Office of Pollution Control, Air Division, 515 East Amite Street, Jackson, Mississippi 39201.

(AA) State of Missouri: Missouri Department of Natural Resources, Division of Environmental Quality, P.O. Box 176, Jefferson City, MO 65102.

(BB) State of Montana, Department of Environmental Quality, 1520 E. 6th Ave., PO Box 200901, Helena, MT 59620–0901.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

(CC) State of Nebraska, Nebraska Department of Environmental Control, P.O. Box 94877, State House Station, Lincoln, NE 68509.

Lincoln-Lancaster County Health Department, Division of Environmental Health, 2200 St. Marys Avenue, Lincoln, NE 68502.

(DD) Nevada:

Nevada Division of Environmental Protection, 901 South Stewart Street, Suite 4001, Carson City, NV 89701–5249.

Clark County Department of Air Quality and Environmental Management, 500 S. Grand Central Parkway, 1st Floor, P.O. Box 555210, Las Vegas, NV 89155–5210.

Washoe County Health District, Air Quality Management Division, 1001 E. 9th Street, Building A, Suite 115A, Reno, NV 89520.

Note: For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

(EE) State of New Hampshire, Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

(FF) State of New Jersey: New Jersey Department of Environmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, NJ 08625.

(GG) *State of New Mexico:* New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502. For a list of delegated standards for New Mexico (excluding Bernalillo County and Indian country), see paragraph (c)(6) of this section.

(i) Albuquerque-Bernalillo County Air Quality Control Board, c/o Environmental Health Department, P.O. Box 1293, Albuquerque, New Mexico 87103.

(ii) [Reserved]

(HH) New York: New York State Department of Environmental Conservation, 50 Wolf Road, Albany, NY 12233, attention: Division of Air Resources.

(II) State of North Carolina: North Carolina Department of Environment and Natural Resources, Division of Air Quality, 1641 Mail Service Center, Raleigh, North Carolina 27699–1641.

Forsyth County Environmental Affairs, 537 North Spruce Street, Winston-Salem, North Carolina 27101.

Mecklenburg County Air Quality, 700 N. Tryon St., Suite 205, Charlotte, North Carolina 28202–2236.

Western North Carolina Regional Air Quality Agency, 49 Mount Carmel Road, Asheville, North Carolina 28806.

(JJ) State of North Dakota, Division of Air Quality, North Dakota Department of Health, P.O. Box 5520, Bismarck, ND 58506–5520.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

(KK) State of Ohio:

(i) Medina, Summit and Portage Counties; Director, Akron Regional Air Quality Management District, 146 South High Street, Room 904, Akron, OH 44308.

(ii) Stark County; Director, Canton City Health Department, Air Pollution Control Division, 420 Market Avenue North, Canton, Ohio 44702–1544.

(iii) Butler, Clermont, Hamilton, and Warren Counties; Director, Hamilton County Department of Environmental Services, 250 William Howard Taft Road, Cincinnati, Ohio 45219–2660.

(iv) Cuyahoga County; Commissioner, Cleveland Department of Public Health, Division of Air Quality, 75 Erieview Plaza 2nd Floor, Cleveland, Ohio 44114.

(v) Clark, Darke, Greene, Miami, Montgomery, and Preble Counties; Director, Regional Air Pollution Control Agency, 117 South Main Street, Dayton, Ohio 45422–1280.

(vi) Lucas County and the City of Rossford (in Wood County); Director, City of Toledo, Division of Environmental Services, 348 South Erie Street, Toledo, OH 43604.

(vii) Adams, Brown, Lawrence, and Scioto Counties; Portsmouth Local Air Agency, 605 Washington Street, Third Floor, Portsmouth, OH 45662.

(viii) Allen, Ashland, Auglaize, Crawford, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Marion, Mercer, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert Williams, Wood (Except City of Rossford),

and Wyandot Counties; Ohio Environmental Protection Agency, Northwest District Office, Air Pollution Control, 347 North Dunbridge Road, Bowling Green, Ohio 43402.

(ix) Ashtabula, Caroll, Colombiana, Holmes, Lorain, and Wayne Counties; Ohio Environmental Protection Agency, Northeast District Office, Air Pollution Unit, 2110 East Aurora Road, Twinsburg, OH 44087.

(x) Athens, Belmont, Coshocton, Gallia, Guemsey, Harrison, Hocking, Jackson, Jefferson, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Tuscarawas, Vinton, and Washington Counties; Ohio Environmental Protection Agency, Southeast District Office, Air Pollution Unit, 2195 Front Street, Logan, OH 43138.

(xi) Champaign, Clinton, Highland, Logan, and Shelby Counties; Ohio Environmental Protection Agency, Southwest District Office, Air Pollution Unit, 401 East Fifth Street, Dayton, Ohio 45402–2911.

(xii) Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Madison, Morrow, Pickaway, and Union Counties; Ohio Environmental Protection Agency, Central District Office, Air Pollution control, 50 West Town Street, Suite 700, Columbus, Ohio 43215.

(xiii) Geauga and Lake Counties; Lake County General Health District, Air Pollution Control, 33 Mill Street, Painesville, OH 44077.

(xiv) Mahoning and Trumbull Counties; Mahoning-Trumbull Air Pollution Control Agency, 345 Oak Hill Avenue, Suite 200, Youngstown, OH 44502.

(LL) State of Oklahoma, Oklahoma Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101–1677. For a list of delegated standards for Oklahoma (excluding Indian country), see paragraph (c)(6) of this section.

(i) Oklahoma City and County: Director, Oklahoma City-County Health Department, 921 Northeast 23rd Street, Oklahoma City, OK 73105.

(ii) Tulsa County: Tulsa City-County Health Department, 4616 East Fifteenth Street, Tulsa, OK 74112.

(MM) State of Oregon.

(i) Oregon Department of Environmental Quality (ODEQ), 811 SW Sixth Ave, Portland, OR 97204–1390, *http://www.deq.state.or.us/*.

(ii) Lane Regional Air Pollution Authority (LRAPA), 1010 Main Street, Springfield, Oregon 97477, *http://www.lrapa.org*.

(iii) See paragraph (c)(10) of this section for a table indicating the delegation status of National Emission Standards for Hazardous Air Pollutants for Region 10—Alaska, Idaho, Oregon, and Washington.

(vii) [Reserved]

(viii) Lane Regional Air Pollution Authority, 225 North Fifth, suite 501, Springfield, OR 97477.

(NN)

(i) City of Philadelphia, Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104.

(ii) Commonwealth of Pennsylvania, Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

(iii) Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

(OO) State of Rhode Island, Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908.

(PP) State of South Carolina: South Carolina Department of Health and Environmental Control, 2600 Bull St., Columbia, South Carolina 29201.

(QQ) State of South Dakota, Department of Water and Natural Resources, Office of Air Quality and Solid Waste, Joe Foss Building, 523 East Capitol, Pierre, SD 57501–3181.

Note: For a table listing Region VIII's NESHAPs delegation status, see paragraph (c) of this section.

(RR) State of Tennessee: Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 401 Church Street, 9th Floor, L&C Annex, Nashville, Tennessee 37243–1531.

Knox County Air Quality Management—Department of Public Health, 140 Dameron Avenue, Knoxville, Tennessee 37917.

Air Pollution Control Bureau, Metropolitan Health Department, 311 23rd Avenue North, Nashville, Tennessee 37203.

Chattanooga-Hamilton County Air Pollution Control Bureau, 6125 Preservation Drive, Chattanooga, Tennessee 37416.

Memphis-Shelby County Health Department—Air Pollution Control Program, 814 Jefferson Avenue, Memphis, Tennessee 38105.

(SS) State of Texas, Texas Air Control Board, 6330 Highway 290 East, Austin, TX 78723.

(TT) State of Utah, Division of Air Quality, Department of Environmental Quality, P.O. Box 144820, Salt Lake City, UT 84114–4820.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

(UU) State of Vermont, Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

(VV) Commonwealth of Virginia, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

(WW) State of Washington.

(i) Washington State Department of Ecology (Ecology), P.O. Box 47600, Olympia, WA 98504–7600, *http://www.ecy.wa.gov/.*

(ii) Benton Clean Air Authority (BCAA), 650 George Washington Way, Richland, WA 99352–4289, *http://www.bcaa.net/.*

(iii) Northwest Air Pollution Control Authority (NWAPA), 1600 South Second St., Mount Vernon, WA 98273–5202, *http://www.nwair.org/.*

(iv) Olympic Air Pollution Control Authority (OAPCA), 909 Sleater-Kinney Road S.E., Suite 1, Lacey, WA 98503–1128, *http://www.oapca.org/.*

(v) Puget Sound Clean Air Agency (PSCAA), 110 Union Street, Suite 500, Seattle, WA 98101–2038, *http://www.pscleanair.org/.*

(vi) Spokane County Air Pollution Control Authority (SCAPCA), West 1101 College, Suite 403, Spokane, WA 9920, *http://www.scapca.org/.*

(vii) Southwest Clean Air Agency (SWCAA), 1308 NE 134th St., Vancouver, WA 98685–2747, *http://www.swcleanair.org/.*

(viii) Yakima Regional Clean Air Agency (YRCAA), Larson Building, Suite 1016, 6 South 2nd St., Yakima WA 98901, *http://co.yakima.wa.us/cleanair/default.htm.*

(ix) See paragraph (c)(10) of this section for a table indicating the delegation status of National Emission Standards for Hazardous Air Pollutants for Region 10—Alaska, Idaho, Oregon, and Washington.

(XX) State of West Virginia, Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, West Virginia 25304.

(YY) State of Wisconsin: Wisconsin Department of Natural Resources, 101 South Webster St., P.O. Box 7921, Madison, Wisconsin 53707–7921. 101 South Webster St., P.O. Box 7921, Madison, Wisconsin 53707–7921.

(ZZ) State of Wyoming, Air Quality Division, Department of Environmental Quality, 122 W. 25th St., Cheyenne, WY 82002.

(AAA) Territory of Guam: Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921.

Note: For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

(BBB) Commonwealth of Puerto Rico: Commonwealth of Puerto Rico Environmental Quality Board, P.O. Box 11785, Santurce, PR 00910.

(CCC) U.S. Virgin Islands: U.S. Virgin Islands Department of Conservation and Cultural Affairs, P.O. Box 578, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00801.

(DDD) American Samoa: American Samoa Environmental Protection Agency, P.O. Box PPA, Pago Pago, American Samoa 96799.

Note: For tables listing the delegation status of agencies in Region IX, see paragraph (d) of this section.

(EEE) Commonwealth of the Northern Mariana Islands: CNMI Division of Environmental Quality, P.O. Box 501304, Saipan, MP 96950.

Note: For tables listing the delegation status of agencies in Region IX, see paragraph (d) of this section.

(c) Intentionally removed because it is not relevant to Florida.

Editorial Note: For Federal Register citations to §61.04 see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 61.05 Prohibited activities.

(a) After the effective date of any standard, no owner or operator shall construct or modify any stationary source subject to that standard without first obtaining written approval from the Administrator in accordance with this subpart, except under an exemption granted by the President under section 112(c)(2) of the Act. Sources, the construction or modification of which commenced after the publication date of the standards proposed to be applicable to the sources, are subject to this prohibition.

(b) After the effective date of any standard, no owner or operator shall operate a new stationary source subject to that standard in violation of the standard, except under an exemption granted by the President under section 112(c)(2) of the Act.

(c) Ninety days after the effective date of any standard, no owner or operator shall operate any existing source subject to that standard in violation of the standard, except under a waiver granted by the Administrator under this part or under an exemption granted by the President under section 112(c)(2) of the Act.

(d) No owner or operator subject to the provisions of this part shall fail to report, revise reports, or report source test results as required under this part.

[38 FR 8826, Apr. 6, 1973, as amended at 50 FR 46291, Nov. 7, 1985]

§ 61.06 Determination of construction or modification.

An owner or operator may submit to the Administrator a written application for a determination of whether actions intended to be taken by the owner or operator constitute construction or modification, or commencement thereof, of a source subject to a standard. The Administrator will notify the owner or operator of his determination within 30 days after receiving sufficient information to evaluate the application.

[50 FR 46291, Nov. 7, 1985]

§ 61.07 Application for approval of construction or modification.

(a) The owner or operator shall submit to the Administrator an application for approval of the construction of any new source or modification of any existing source. The application shall be submitted before the construction or modification is planned to commence, or within 30 days after the effective date if the construction or modification had commenced before the effective date and initial startup has not occurred. A separate application shall be submitted for each stationary source.

(b) Each application for approval of construction shall include—

(1) The name and address of the applicant;

(2) The location or proposed location of the source; and

(3) Technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of any equipment to be used for control of emissions. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations.

(c) Each application for approval of modification shall include, in addition to the information required in paragraph (b) of this section—

(1) The precise nature of the proposed changes;

(2) The productive capacity of the source before and after the changes are completed; and

(3) Calculations of estimates of emissions before and after the changes are completed, in sufficient detail to permit assessment of the validity of the calculations.

[50 FR 46291, Nov. 7, 1985]

§ 61.08 Approval of construction or modification.

(a) The Administrator will notify the owner or operator of approval or intention to deny approval of construction or modification within 60 days after receipt of sufficient information to evaluate an application under §61.07.

(b) If the Administrator determines that a stationary source for which an application under §61.07 was submitted will not cause emissions in violation of a standard if properly operated, the Administrator will approve the construction or modification.

(c) Before denying any application for approval of construction or modification, the Administrator will notify the applicant of the Administrator's intention to issue the denial together with—

(1) Notice of the information and findings on which the intended denial is based; and

(2) Notice of opportunity for the applicant to present, within such time limit as the Administrator shall specify, additional information or arguments to the Administrator before final action on the application.

(d) A final determination to deny any application for approval will be in writing and will specify the grounds on which the denial is based. The final determination will be made within 60 days of presentation of additional information or arguments, or 60 days after the final date specified for presentation if no presentation is made.

(e) Neither the submission of an application for approval nor the Administrator's approval of construction or modification shall—

(1) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or of any other applicable Federal, State, or local requirement; or

(2) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

[50 FR 46291, Nov. 7, 1985]

§ 61.09 Notification of startup.

(a) The owner or operator of each stationary source which has an initial startup after the effective date of a standard shall furnish the Administrator with written notification as follows:

(1) A notification of the anticipated date of initial startup of the source not more than 60 days nor less than 30 days before that date.

(2) A notification of the actual date of initial startup of the source within 15 days after that date.

(b) If any State or local agency requires a notice which contains all the information required in the notification in paragraph (a) of this section, sending the Administrator a copy of that notification will satisfy paragraph (a) of this section.

[50 FR 46291, Nov. 7, 1985]

§ 61.10 Source reporting and waiver request.

(a) The owner or operator of each existing source or each new source which had an initial startup before the effective date shall provide the following information in writing to the Administrator within 90 days after the effective date:

(1) Name and address of the owner or operator.

(2) The location of the source.

(3) The type of hazardous pollutants emitted by the stationary source.

(4) A brief description of the nature, size, design, and method of operation of the stationary source including the operating design capacity of the source. Identify each point of emission for each hazardous pollutant.

(5) The average weight per month of the hazardous materials being processed by the source, over the last 12 months preceding the date of the report.

(6) A description of the existing control equipment for each emission point including—

(i) Each control device for each hazardous pollutant; and

(ii) Estimated control efficiency (percent) for each control device.

(7) A statement by the owner or operator of the source as to whether the source can comply with the standards within 90 days after the effective date.

(b) The owner or operator of an existing source unable to comply with an applicable standard may request a waiver of compliance with that standard for a period not exceeding 2 years after the effective date. Any request shall be in writing and shall include the following information:

(1) A description of the controls to be installed to comply with the standard.

(2) A compliance schedule, including the date each step toward compliance will be reached. The list shall include as a minimum the following dates:

(i) Date by which contracts for emission control systems or process changes for emission control will be awarded, or date by which orders will be issued for the purchase of component parts to accomplish emission control or process changes;

(ii) Date of initiation of onsite construction or installation of emission control equipment or process change;

(iii) Date by which onsite construction or installation of emission control equipment or process change is to be completed; and

(iv) Date by which final compliance is to be achieved.

(3) A description of interim emission control steps which will be taken during the waiver period.

(c) Any change in the information provided under paragraph (a) of this section or §61.07(b) shall be provided to the Administrator within 30 days after the change. However, if any change will result from modification of the source, §§61.07(c) and 61.08 apply.

(d) A possible format for reporting under this section is included as appendix A of this part. Advice on reporting the status of compliance may be obtained from the Administrator.

(e) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(f) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(g) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(h) If an owner or operator of a stationary source in a State with delegated authority is required to submit reports under this part to the State, and if the State has an established timeline for the submission of reports that is consistent with the reporting frequency(ies) specified for such source under this part, the owner or operator may change the dates by which reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the source is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(i) If an owner or operator supervises one or more stationary sources affected by standards set under this part and standards set under part 60, part 63, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State with an approved permit program) a common schedule on which reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the source is required to be in compliance with the applicable subpart in this part, or 1 year after the source is required to be in compliance with the applicable part 60 or part 63 standard, whichever is latest. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(j)

(1)

(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (j)(2) and (j)(3) of this section, the owner or operator of an affected source remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (j)(2) and (j)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner

or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

[38 FR 8826, Apr. 6, 1973, as amended at 50 FR 46292, Nov. 7, 1985; 59 FR 12430, Mar. 16, 1994]

§ 61.11 Waiver of compliance.

(a) Based on the information provided in any request under §61.10, or other information, the Administrator may grant a waiver of compliance with a standard for a period not exceeding 2 years after the effective date of the standard.

(b) The waiver will be in writing and will—

(1) Identify the stationary source covered;

(2) Specify the termination date of the waiver;

(3) Specify dates by which steps toward compliance are to be taken; and

(4) Specify any additional conditions which the Administrator determines necessary to assure installation of the necessary controls within the waiver period and to assure protection of the health of persons during the waiver period.

(c) The Administrator may terminate the waiver at an earlier date than specified if any specification under paragraphs (b)(3) and (b)(4) of this section are not met.

(d) Before denying any request for a waiver, the Administrator will notify the owner or operator making the request of the Administrator's intention to issue the denial, together with—

(1) Notice of the information and findings on which the intended denial is based; and

(2) Notice of opportunity for the owner or operator to present, within the time limit the Administrator specifies, additional information or arguments to the Administrator before final action on the request.

(e) A final determination to deny any request for a waiver will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 60 days after presentation of additional information or argument; or within 60 days after the final date specified for the presentation if no presentation is made.

(f) The granting of a waiver under this section shall not abrogate the Administrator's authority under section 114 of the Act.

[50 FR 46292, Nov. 7, 1985]

§ 61.12 Compliance with standards and maintenance requirements.

(a) Compliance with numerical emission limits shall be determined in accordance with emission tests established in §61.13 or as otherwise specified in an individual subpart.

(b) Compliance with design, equipment, work practice or operational standards shall be determined as specified in an individual subpart.

(c) The owner or operator of each stationary source shall maintain and operate the source, including associated equipment for air pollution control, in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the source.

(d)

(1) If, in the Administrator's judgment, an alternative means of emission limitation will achieve a reduction in emissions of a pollutant from a source at least equivalent to the reduction in emissions of that pollutant from that source achieved under any design, equipment, work practice or operational standard, the Administrator will publish in the Federal Register a notice permitting the use of the alternative means for purposes of compliance with the standard. The notice will restrict the permission to the source(s) or category(ies) of sources on which the alternative means will achieve equivalent emission reductions. The notice may condition permission on requirements related to the operation and maintenance of the alternative means.

(2) Any notice under paragraph (d)(1) shall be published only after notice and an opportunity for a hearing.

(3) Any person seeking permission under this subsection shall, unless otherwise specified in the applicable subpart, submit a proposed test plan or the results of testing and monitoring, a description of the procedures followed in testing or monitoring, and a description of pertinent conditions during testing or monitoring.

(e) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this part, nothing in this part shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed.

[50 FR 46292, Nov. 7, 1985, as amended 62 FR 8328, Feb. 24, 1997]

§ 61.13 Emission tests and waiver of emission tests.

(a) Except as provided in paragraphs (a)(3), (a)(4), (a)(5), and (a)(6) of this section, if required to do emission testing by an applicable subpart and unless a waiver of emission testing is obtained under this section, the owner or operator shall test emissions from the source:

(1) Within 90 days after the effective date, for an existing source or a new source which has an initial startup date before the effective date.

(2) Within 90 days after initial startup, for a new source which has an initial startup date after the effective date.

(3) If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the Administrator, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline specified in paragraphs (a)(1) or (a)(2) of this section or beyond a deadline established pursuant to the requirements under paragraph (b) of this section, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall occur as soon as practicable.

(4) The owner or operator shall provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

(5) The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the Administrator. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.

(6) Until an extension of the performance test deadline has been approved by the Administrator under paragraphs (a)(3), (a)(4), and (a)(5) of this section, the owner or operator of the affected facility remains strictly subject to the requirements of this part.

(b) The Administrator may require an owner or operator to test emissions from the source at any other time when the action is authorized by section 114 of the Act.

(c) The owner or operator shall notify the Administrator of the emission test at least 30 days before the emission test to allow the Administrator the opportunity to have an observer present during the test.

(d) If required to do emission testing, the owner or operator of each new source and, at the request of the Administrator, the owner or operator of each existing source shall provide emission testing facilities as follows:

(1) Sampling ports adequate for test methods applicable to each source.

(2) Safe sampling platform(s).

(3) Safe access to sampling platform(s).

(4) Utilities for sampling and testing equipment.

(5) Any other facilities that the Administrator needs to safely and properly test a source.

(e) Each emission test shall be conducted under such conditions as the Administrator shall specify based on design and operational characteristics of the source.

(1) The performance testing shall include a test method performance audit (PA) during the performance test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the performance test in order to provide a measure of test data bias. Gaseous audit samples are designed to audit the performance of the sampling system as well as the analytical system and must be collected by the sampling system during the compliance test just as the compliance samples are collected. If a liquid or solid audit sample is designed to audit the sampling system, it must also be collected by the sampling system during the compliance test. If multiple sampling systems or sampling trains are used during the compliance test for any of the test methods, the tester is only required to use one of the sampling systems per method to collect the audit sample. The audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system and at the same time as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. Acceptance of the test results shall constitute a waiver of the reanalysis requirement, further audits, or retests. The compliance authority may also use the audit sample failure and the compliance test results as evidence to determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at or near the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body.

(i) The source owner, operator, or representative of the tested facility shall obtain an audit sample, if commercially available, from an AASP for each test method used for regulatory compliance purposes. No audit samples are required for the following test methods: Methods 3C of Appendix A–3 of Part 60, Methods 6C, 7E, 9, and 10 of Appendix A–4 of Part 60, Method 18 of Appendix A–6 of Part 60, Methods 20, 22, and 25A of Appendix A–7 of Part 60, and Methods 303, 318, 320, and 321 of Appendix A of Part 63. If multiple sources at a single facility are tested during a compliance test event, only one audit sample is required for each method used during a compliance test. The compliance authority responsible for the compliance test may waive the requirement to include an audit sample if they believe that an audit sample is not necessary. “Commercially available” means that two or more independent AASPs have blind audit samples available for purchase. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, *www.epa.gov/ttn/emc*, to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample, the source owner, operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source or the estimated concentration of each pollutant based on the permitted level and the name, address, and phone number of the

compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and report to the AASP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The tester may request and the compliance authority may grant a waiver to the requirement that a representative of the compliance authority must be present at the testing site during the field analysis of an audit sample. The source owner, operator, or representative may report the results of the audit sample to the compliance authority and then report the results of the audit sample to the AASP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

(ii) An AASP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples will be prepared and distributed in a manner that will ensure the integrity of the audit sample program. An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

(A) Preparing the sample;

(B) Confirming the true concentration of the sample;

(C) Defining the acceptance limits for the results from a well qualified tester. This procedure must use well established statistical methods to analyze historical results from well qualified testers. The acceptance limits shall be set so that there is 95 percent confidence that 90 percent of well qualified labs will produce future results that are within the acceptance limit range;

(D) Providing the opportunity for the compliance authority to comment on the selected concentration level for an audit sample;

(E) Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;

(F) Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;

(G) Reporting the results from each audit sample in a timely manner to the compliance authority and to the source owner, operator, or representative by the AASP. The AASP shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, and whether the testing company passed or failed the audit. The AASP shall report the true value of the audit sample to the compliance authority. The AASP may report the true value to the source owner, operator, or representative if the AASP's operating plan ensures that no laboratory will receive the same audit sample twice.

(H) Evaluating the acceptance limits of samples at least once every two years to determine in consultation with the voluntary consensus standard body if they should be changed;

(I) Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(iii) The accrediting body shall have a written technical criteria document that describes how it will ensure that the AASP is operating in accordance with the AASP technical criteria document that describes how audit or samples are to be prepared and distributed. This document shall contain standard operating procedures for all of the following operations:

(A) Checking audit samples to confirm their true value as reported by the AASP.

(B) Performing technical systems audits of the AASP's facilities and operating procedures at least once every two years.

(C) Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

(iv) The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget *Circular A–119.* A copy of Circular A–119 is available upon request by writing the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, by calling (202) 395–6880 or downloading online at *http://standards.gov/standards_gov/a119.cfm.* The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria documents do not meet the minimum technical requirements in paragraphs (e)(1)(ii) through (iv) of this section, the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria documents shall be posted on the EPA Web site at the following URL, *http://www.epa.gov/ttn/emc.*

(2) [Reserved]

(f) Unless otherwise specified in an applicable subpart, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Administrator by a registered letter sent before the close of business on the 31st day following the completion of the emission test.

(g) The owner or operator shall retain at the source and make available, upon request, for inspection by the Administrator, for a minimum of 2 years, records of emission test results and other data needed to determine emissions.

(h)

(1) Emission tests shall be conducted as set forth in this section, the applicable subpart and appendix B unless the Administrator—

(i) Specifies or approves the use of a reference method with minor changes in methodology; or

(ii) Approves the use of an alternative method; or

(iii) Waives the requirement for emission testing because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is in compliance with the standard.

(2) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative method, he may require the use of a reference method. If the results of the reference and alternative methods do not agree, the results obtained by the reference method prevail.

(3) The owner or operator may request approval for the use of an alternative method at any time, except—

(i) For an existing source or a new source that had an initial startup before the effective date, any request for use of an alternative method during the initial emission test shall be submitted to the Administrator within 30 days after the effective date, or with the request for a waiver of compliance if one is submitted under §60.10(b); or

(ii) For a new source that has an initial startup after the effective date, any request for use of an alternative method during the initial emission test shall be submitted to the Administrator no later than with the notification of anticipated startup required under §60.09.

(i)

(1) Emission tests may be waived upon written application to the Administrator if, in the Administrator's judgment, the source is meeting the standard, or the source is being operated under a waiver or compliance, or the owner or operator has requested a waiver of compliance and the Administrator is still considering that request.

(2) If application for waiver of the emission test is made, the application shall accompany the information required by §61.10 or the notification of startup required by §61.09, whichever is applicable. A possible format is contained in appendix A to this part.

(3) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later cancelling the waiver. The cancellation will be made only after notice is given to the owner or operator of the source.

[50 FR 46292, Nov. 7, 1985, as amended at 72 FR 27442, May 16, 2007; 75 FR 55652, Sept. 13, 2010]

§ 61.14 Monitoring requirements.

(a) Unless otherwise specified, this section applies to each monitoring system required under each subpart which requires monitoring.

(b) Each owner or operator shall maintain and operate each monitoring system as specified in the applicable subpart and in a manner consistent with good air pollution control practice for minimizing emissions. Any unavoidable breakdown or malfunction of the monitoring system should be repaired or adjusted as soon as practicable after its occurrence. The Administrator's determination of whether acceptable operating and maintenance procedures are being used will be based on information which may include, but not be limited to, review of operating and maintenance procedures, manufacturer recommendations and specifications, and inspection of the monitoring system.

(c) When required by the applicable subpart, and at any other time the Administrator may require, the owner or operator of a source being monitored shall conduct a performance evaluation of the monitoring system and furnish the Administrator with a copy of a written report of the results within 60 days of the evaluation. Such a performance evaluation shall be conducted according to the applicable specifications and procedures described in the applicable subpart. The owner or operator of the source shall furnish the Administrator with written notification of the date of the performance evaluation at least 30 days before the evaluation is to begin.

(d) When the effluents from a single source, or from two or more sources subject to the same emission standards, are combined before being released to the atmosphere, the owner or operator shall install a monitoring system on each effluent or on the combined effluent. If two or more sources are not subject to the same emission standards, the owner or operator shall install a separate monitoring system on each effluent, unless otherwise specified. If the applicable standard is a mass emission standard and the effluent from one source is released to the atmosphere through more than one point, the owner or operator shall install a monitoring system at each emission point unless the installation of fewer systems is approved by the Administrator.

(e) The owner or operator of each monitoring system shall reduce the monitoring data as specified in each applicable subpart. Monitoring data recorded during periods of unavoidable monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in any data average.

(f) The owner or operator shall maintain records of monitoring data, monitoring system calibration checks, and the occurrence and duration of any period during which the monitoring system is malfunctioning or inoperative. These records shall be maintained at the source for a minimum of 2 years and made available, upon request, for inspection by the Administrator.

(g)

(1) Monitoring shall be conducted as set forth in this section and the applicable subpart unless the Administrator—

(i) Specifies or approves the use of the specified monitoring requirements and procedures with minor changes in methodology; or

(ii) Approves the use of alternatives to any monitoring requirements or procedures.

(2) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative monitoring method, the Administrator may require the monitoring requirements and procedures specified in this part.

[50 FR 46293, Nov. 7, 1985]

§ 61.15 Modification.

(a) Except as provided under paragraph (d) of this section, any physical or operational change to a stationary source which results in an increase in the rate of emission to the atmosphere of a hazardous pollutant to which a standard applies shall be considered a modification.

(b) Upon modification, an existing source shall become a new source for each hazardous pollutant for which the rate of emission to the atmosphere increases and to which a standard applies.

(c) Emission rate shall be expressed as kg/hr of any hazardous pollutant discharged into the atmosphere for which a standard is applicable. The Administrator shall use the following to determine the emission rate:

(1) Emission factors as specified in the background information document (BID) for the applicable standard, or in the latest issue of "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP–42, or other emission factors determined by the Administrator to be superior to AP–42 emission factors, in cases where use of emission factors demonstrates that the emission rate will clearly increase or clearly not increase as a result of the physical or operational change.

(2) Material balances, monitoring data, or manual emission tests in cases where use of emission factors, as referenced in paragraph (c)(1) of this section, does not demonstrate to the Administrator's satisfaction that the emission rate will clearly increase or clearly not increase as a result of the physical or operational change, or where an interested person demonstrates to the Administrator's satisfaction that there are reasonable grounds to dispute the result obtained by the Administrator using emission factors. When the emission rate is based on results from manual emission tests or monitoring data, the procedures specified in appendix C of 40 CFR part 60 shall be used to determine whether an increase in emission rate has occurred. Tests shall be conducted under such conditions as the Administrator shall specify to the owner or operator. At least three test runs must be conducted before and at least three after the physical or operational change. If the Administrator approves, the results of the emission tests required in §61.13(a) may be used for the test runs to be conducted before the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum degree feasible for all test runs.

(d) The following shall not, by themselves, be considered modifications under this part:

(1) Maintenance, repair, and replacement which the Administrator determines to be routine for a source category.

(2) An increase in production rate of a stationary source, if that increase can be accomplished without a capital expenditure on the stationary source.

(3) An increase in the hours of operation.

(4) Any conversion to coal that meets the requirements specified in section 111(a)(8) of the Act.

(5) The relocation or change in ownership of a stationary source. However, such activities must be reported in accordance with §61.10(c).

[50 FR 46294, Nov. 7, 1985]

§ 61.16 Availability of information.

The availability to the public of information provided to, or otherwise obtained by, the Administrator under this part shall be governed by part 2 of this chapter.

[38 FR 8826, Apr. 6, 1973. Redesignated at 50 FR 46294, Nov. 7, 1985]

§ 61.17 State authority.

(a) This part shall not be construed to preclude any State or political subdivision thereof from—

(1) Adopting and enforcing any emission limiting regulation applicable to a stationary source, provided that such emission limiting regulation is not less stringent than the standards prescribed under this part; or

(2) Requiring the owner or operator of a stationary source to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of the source.

[50 FR 46294, Nov. 7, 1985]

§ 61.18 Incorporations by reference.

The materials listed below are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and a notice of any change in these materials will be published in theFederal Register.The materials are available for inspection at the corresponding address noted below, and at U.S. EPA's Air Docket at 1200 Pennsylvania Avenue, NW, Washington, DC 20460, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(a) The following materials are available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM) International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106.

(1) ASTM D737–75, Standard Test Method for Air Permeability of Textile Fabrics, incorporation by reference (IBR) approved January 27, 1983 for §61.23(a).

(2) ASTM D835–85, Standard Specification for Refined Benzene-485, IBR approved September 14, 1989 for §61.270(a).

(3) ASTM D836–84, Standard Specification for Industrial Grade Benzene, IBR approved September 14, 1989 for §61.270(a).

(4) ASTM D1193–77, 91, Standard Specification for Reagent Water, IBR approved for appendix B: Method 101, Section 7.1.1; Method 101A, Section 7.1.1; and Method 104, Section 7.1; Method 108, Section 7.1.3; Method 108A, Section 7.1.1; Method 108B, Section 7.1.1; Method 108C, Section 7.1.1; and Method 111, Section 7.3.

(5) ASTM D2267–68, 78, 88, Standard Test Method for Aromatics in Light Naphthas and Aviation Gasoline by Gas Chromatography, IBR approved September 30, 1986, for §61.67(h)(1).

(6) ASTM D2359–85a, 93, Standard Specification for Refined Benzene-535, IBR approved September 14, 1989 for §61.270(a).

(7) ASTM D2382–76, 88, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), IBR approved June 6, 1984 for §61.245(e)(3).

(8) ASTM D2504–67, 77, 88 (Reapproved 1993), Noncondensable Gases in $C_3$and Lighter Hydrocarbon Products by Gas Chromatography, IBR approved June 6, 1984 for §61.245(e)(3).

(9) ASTM D2879–83, Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved December 14, 2000 for §61.241.

(10) ASTM D2986–71, 78, 95a, Standard Method for Evaluation of Air, Assay Media by the Monodisperse DOP (Dioctyl Phthalate) Smoke Test, IBR approved for appendix B: Method 103, Section 6.1.3.

(11) ASTM D4420–94, Standard Test Method for Determination of Aromatics in Finished Gasoline by Gas Chromatography, IBR approved for §61.67(h)(1).

(12) ASTM D4734–87, 96, Standard Specification for Refined Benzene-545, IBR approved September 14, 1989 for §61.270(a).

(13) ASTM D4809–95, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method), IBR approved for §61.245(e)(3).

(14) ASTM E50–82, 86, 90 (Reapproved 1995), Standard Practices for Apparatus Reagents, and Safety Precautions for Chemical Analysis of Metals, IBR approved for appendix B: Method 108C, Section 6.1.4.

(b) The following material is available from the U.S. EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268.

(1) Method 601, Test Method for Purgeable Halocarbons, July 1982, IBR approved September 30, 1986, for §61.67(g)(2).

(c) The following material is available for purchase from the American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, New York 10036.

(1) ANSI N13.1–1969, "Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities." IBR approved for 61.93(b)(2)(ii) and 61.107(b)(2)(ii).

(2) ANSI/HPS N13.1–1999 "Sampling and Monitoring Releases of Airborne Radioactive Substances from the Stacks and Ducts of Nuclear Facilities," IBR approved October 9, 2002, for §§61.93(c); 61.107(d) and Method 114, paragraph 2.1 of Appendix B to 40 CFR part 61.

(d) The following material is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800 or outside of Washington, DC area: 1–866–512–1800.

(1) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW–846, Third Edition, November 1986, as amended by Revision I, December 1987, Order Number 955–001–00000–1:

(i) Method 8020, Aromatic Volatile Organics, IBR approved March 7, 1990, for §61.355(c)(2)(iv)(A).

(ii) Method 8021, Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series, IBR approved March 7, 1990, for §61.355(c)(2)(iv)(B).

(iii) Method 8240, Gas Chromatography/Mass Spectrometry for Volatile Organics, IBR approved March 7, 1990, for §61.355(c)(2)(iv)(C).

(iv) Method 8260, Gas Chromatography/Mass Spectrometry for Volatile Organics: Capillary Column Technique, IBR approved March 7, 1990, for §61.355(c)(2)(iv)(D).

(e) The materials listed in this paragraph (e) are available for purchase from the American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

(1) API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition. February 1989. IBR approved December 14, 2000 for §61.241.

(2) [Reserved]

[48 FR 3740, Jan. 27, 1983, as amended at 48 FR 55266, Dec. 9, 1983; 49 FR 23520, June 6, 1984; 51 FR 34914, Sept. 30, 1986; 54 FR 38073, Sept. 14, 1989; 54 FR 51704, Dec. 15, 1989; 55 FR 8341, Mar. 7, 1990; 55 FR 18331, May 2, 1990; 55 FR 22027, May 31, 1990; 55 FR 32914, Aug. 13, 1990; 65 FR 62150, Oct. 17, 2000; 65 FR 78280, Dec. 14, 2000; 67 FR 57166, Sept. 9, 2002; 69 FR 18803, Apr. 9, 2004]

§ 61.19 Circumvention.

No owner or operator shall build, erect, install, or use any article machine, equipment, process, or method, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous dilutants to achieve compliance with a visible emissions standard, and the piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

[40 FR 48299, Oct. 14, 1975. Redesignated at 50 FR 46294, Nov. 7, 1985]