

**SUPPORTING STATEMENT
ENVIRONMENTAL PROTECTION AGENCY**

**NESHAP for Flexible Polyurethane Foam Fabrication
(40 CFR Part 63, Subpart M) Residual Risk and Technology Review**

1. Identification of the Information Collection

1(a) Title of the Information Collection

NESHAP for Flexible Polyurethane Foam Fabrication (40 CFR Part 63, Subpart M) Residual Risk and Technology Review, EPA ICR Number 2027.08, OMB Control Number 2060-0516.

1(b) Short Characterization/Abstract

The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Flexible Polyurethane Foam Fabrication (40 CFR Part 63, Subpart M) were proposed on August 8, 2001 (66 FR 41729), promulgated on April 14, 2003 (68 FR 18062), and most-recently amended on April 20, 2006 (71 FR 20470). This subpart applies to each existing, new, or reconstructed affected source at facilities engaged in flexible polyurethane foam fabrication. For the purpose of the rule, flexible polyurethane foam fabrication is further divided into the following two subcategories: 1) loop slitter adhesive use; and 2) flame lamination. New facilities include those that commenced construction, modification, or reconstruction after August 8, 2001. This information is being collected to assure compliance with 40 CFR Part 63, Subpart M.

In general, all NESHAP standards require initial notification reports, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to the NESHAP.

Any owner/operator subject to the provisions of this part shall maintain a file of these measurements and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the U.S. Environmental Protection Agency (EPA) regional office.

Based on our consultations with the Polyurethane Foam Association (PFA), our search of the Nation Emissions Inventory (NEI), and a review of active air emissions permits, we estimate that there are 3 flexible polyurethane foam fabrication facilities operating in the U.S. subject to the requirements of the Flexible Polyurethane Foam Fabrication Operations NESHAP. A complete list of facilities subject to the Flexible Polyurethane Foam Fabrication Operations NESHAP is available in the risk assessment modeling file, available for review in the docket (Docket ID No. EPA-HQ-OAR-2020-0572). Over the next three years, approximately 3 respondents per year will be subject to these standards, and no additional respondent per year are expected to become subject to these same standards. All existing respondents are loop slitting sources with two of three respondents also have flame lamination operations.

The term “Affected Public” applies to flexible polyurethane foam fabrication facilities, all of which are both publicly-owned and -operated. The Affected Public burden may be found below in Table 1: Annual Respondent Burden and Cost – NESHAP for Flexible Polyurethane Foam Fabrication (40 CFR Part 63, Subpart M) (Renewal). The burden to the Federal Government burden is attributed entirely to work performed by either Federal employees or government contractors, and may be found below in Table 2: Average Annual EPA Burden and Cost – NESHAP for Flexible Polyurethane Foam Fabrication (40 CFR Part 63, Subpart M) (Renewal).

The Office of Management and Budget (OMB) approved the currently active ICR without any “Terms of Clearance.”

The burden to the flexible polyurethane foam fabrication industry (“Affected Public”) may be found below in Tables 1 through 4 of Flex Foam Fabrication RTR ICR_2027.08 Spreadsheet.xlsx, which is included in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0572). The “burden” to the Federal Government is attributed entirely to work performed by either Federal employees or government contractors and may be found Tables 5 through 8 of Flex Foam Fabrication RTR ICR_2027.08 Spreadsheet.xlsx, which is included in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0572). In summary, the cost of this ICR to the flexible polyurethane foam fabrication industry is \$46,000 in labor costs or \$15,000 per year if averaged over the first 3 years after the amendments are final. The total Agency cost during the first 3 years of the ICR is estimated to be \$7,600 or \$2,500 per year. The burden includes the cost to Federal EPA and state agencies to implement the proposed amendments.

2. Need for and Use of the Collection

2(a) Need/Authority for the Collection

The EPA is charged under Section 112 of the Clean Air Act, as amended, to establish standards of performance for each category or subcategory of major sources and area sources of hazardous air pollutants. These standards are applicable to new or existing sources of hazardous air pollutants and shall require the maximum degree of emission reduction. In addition, Section 114(a) states that the Administrator may require any owner/operator subject to any requirement of this Act to:

(A) Establish and maintain such records; (B) make such reports; (C) install, use, and maintain such monitoring equipment, and use such audit procedures, or methods; (D) sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals, during such periods, and in such manner as the Administrator shall prescribe); (E) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical; (F) submit compliance certifications in accordance with Section 114(a)(3); and (G) provide such other information as the Administrator may reasonably require.

In the Administrator's judgment, hazardous air pollutant emissions from flexible polyurethane foam fabrication facilities cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, the NESHAP were promulgated for this source category at 40 CFR Part 63, Subpart MMMMM.

2(b) Practical Utility/Users of the Data

The recordkeeping and reporting requirements in the standards ensure compliance with the applicable regulations which were promulgated in accordance with the Clean Air Act. The collected information is also used for targeting inspections and as evidence in legal proceedings.

Performance tests are required in order to determine an affected facility's initial capability to comply with the emission standard. During the performance test, a record of the operating parameters under which compliance was achieved may be recorded and used to determine compliance in place of a continuous emission monitor.

The notifications required in the standards are used to inform the Agency or delegated authority when a source becomes subject to the requirements of the regulations. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated, that leaks are being detected and repaired, and that the standards are being met. The performance test may also be observed.

The required semiannual reports are used to determine periods of excess emissions, identify problems at the facility, verify operation/maintenance procedures, and for compliance determinations.

The EPA is proposing that owners or operators of affected sources would submit electronic copies of initial notifications required in 40 CFR 63.9(b), notifications of compliance status required in 40 CFR 63.9(h), performance test reports, and semiannual reports through the EPA's Central Data Exchange (CDX), using the Compliance and Emissions Data Reporting Interface (CEDRI). For semiannual reports, EPA would develop a template for the reporting form in CEDRI specifically for 40 CFR part 63, subpart MMMMM.

CEDRI includes the Electronic Reporting Tool (ERT) software, which is used by facilities to generate electronic reports of performance tests. EPA is also proposing that 40 CFR part 63, subpart MMMMM performance test reports be submitted through the EPA's ERT.

The EPA is also proposing amendments to 40 CFR part 63, subpart MMMMM to add emission limits for existing sources of flame lamination, to remove an exemption from the emission limitations for new sources of flame lamination during periods of SSM and to revise the monitoring, recordkeeping, and reporting requirements that are affected by the amendments to the SSM provisions.

3. Non-duplication, Consultations, and Other Collection Criteria

The requested recordkeeping and reporting are required under 40 CFR Part 63, Subpart MMMMM.

3(a) Non-duplication

If the subject standards have not been delegated, the information is sent directly to the appropriate EPA regional office. Otherwise, the information is sent directly to the delegated state or local agency. If a state or local agency has adopted its own similar

standards to implement the Federal standards, a copy of the report submitted to the state or local agency can be sent to the Administrator in lieu of the report required by the Federal standards. Therefore, duplication does not exist.

3(b) Public Notice Required Prior to ICR Submission to OMB

An announcement of a public comment period for the renewal of this ICR will be published in the Federal Register. Any comments that are submitted on the estimated burden will be published in the Federal Register.

3(c) Consultations

The Agency has consulted industry experts and internal data sources to project the number of affected facilities and industry growth over the next three years. The primary source of information as reported by industry, in compliance with the recordkeeping and reporting provisions in the standard, is the Integrated Compliance Information System (ICIS). ICIS is EPA's database for the collection, maintenance, and retrieval of compliance data for industrial and government-owned facilities.

Industry trade associations and other interested parties were provided with an opportunity to comment on the burden associated with the standard when it was being developed and further amended, and the standard has been previously reviewed to determine the minimum information needed for compliance purposes. For the current renewal, EPA contacted both the Polyurethane Foam Association, at (865) 657-9840.

It is our policy to respond after a thorough review of comments received since the last ICR renewal as well as those submitted in response to the first Federal Register notice.

3(d) Effects of Less Frequent Collection

Less frequent information collection would decrease the margin of assurance that facilities are continuing to meet the standards. Requirements for information gathering and recordkeeping are useful techniques to ensure that good operation and maintenance practices are applied, and emission limitations are met. If the information required by these standards was collected less frequently, the proper operation and maintenance of control equipment and the possibility of detecting violations would be less likely.

3(e) General Guidelines

These reporting or recordkeeping requirements do not violate any of the regulations promulgated by OMB under 5 CFR Part 1320, Section 1320.5.

These standards require the respondents to maintain all records, including reports and notifications for at least five years. This is consistent with the General Provisions as applied to the standards. EPA believes that the five-year records retention requirement is consistent with the Part 70 permit program and the five-year statute of limitations on which the permit program is based. The retention of records for five years allows EPA to establish the compliance history of a source, any pattern of non-compliance, and to determine the appropriate level of enforcement action. EPA has found that the most flagrant violators have violations extending beyond five years. In addition, EPA would be prevented from pursuing the violators due to the destruction or nonexistence of essential records.

3(f) Confidentiality

Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B - Confidentiality of Business Information (CBI) (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

3(g) Sensitive Questions

The reporting or recordkeeping requirements in the standard do not include sensitive questions.

4. The Respondents and the Information Requested

4(a) Respondents/SIC Codes

The respondents to the recordkeeping and reporting requirements are flexible polyurethane foam fabrication facilities. The United States Standard Industrial Classification (SIC) code for the respondents affected by the standards is 3086, which corresponds to the North American Industry Classification System (NAICS) code 326150 for “Urethane and Other Foam Products (except Polystyrene) Manufacturing.”

4(b) Information Requested

(i) Data Items

In this ICR, all the data that is recorded or reported is required by the NESHAP for Flexible Polyurethane Foam Fabrication (40 CFR Part 63, Subpart M).

A source must make the following notifications:

Notifications	
Initial notifications	63.8816(a), 63.9(b)
Application for construction/reconstruction (note: new or reconstructed sources must instead submit this application in lieu of initial notifications)	63.8816(c), 63.9(b)(1)(iii)
Notification of performance test	63.8816(d), 63.7(b), 63.9(e)
Notification of compliance status	63.8816(e-h), 63.9(h)(2)(ii)

A source must make the following reports:

Reports	
Initial and subsequent semiannual compliance reports (flame lamination sources only)	63.8818(b)
Initial and subsequent annual compliance reports (loop slitter sources only)	63.8818(c)

A source must keep the following records:

Recordkeeping	
Record of all notifications and reports	63.8820(a)
Record of performance tests, operating parameters, and emissions deviations (flame lamination sources only)	63.8820(b)
Record of adhesives used, adhesives suppliers, and Method 311 tests (loop slitter sources only)	63.8820(c)
Five-year records retention	63.8822(b), 63.10(b)(1)

Electronic Reporting

Some of the respondents are using monitoring equipment that automatically records parameter data. Although personnel at the affected facility must still evaluate the data, internal automation has significantly reduced the burden associated with monitoring and recordkeeping at a plant site.

(ii) Respondent Activities

Respondent Activities
Familiarization with the regulatory requirements.
Perform initial performance test, Reference Method 311 test, and repeat performance tests if necessary.
Write the notifications and reports listed above.
Enter information required to be recorded above.
Submit the required reports developing, acquiring, installing, and utilizing technology and

Respondent Activities
systems for the purpose of collecting, validating, and verifying information.
Develop, acquire, install, and utilize technology and systems for the purpose of processing and maintaining information.
Develop, acquire, install, and utilize technology and systems for the purpose of disclosing and providing information.
Train personnel to be able to respond to a collection of information.
Transmit, or otherwise disclose the information.

5. The Information Collected: Agency Activities, Collection Methodology, and Information Management

5(a) Agency Activities

EPA conducts the following activities in connection with the acquisition, analysis, storage, and distribution of the required information:

Agency Activities
Observe initial performance tests and repeat performance tests if necessary.
Review notifications and reports, including performance test reports and excess emissions reports, required to be submitted by industry.
Audit facility records.

Agency Activities
Input, analyze, and maintain data in Integrated Compliance Information System (ICIS) and ECHO.

5(b) Collection Methodology and Management

Following notification of startup, the reviewing authority could inspect the source to determine whether the pollution control devices are properly installed and operated. Performance test reports are used by the Agency to discern a source's initial capability to comply with the emission standard. Data and records maintained by the respondents are tabulated and published for use in compliance and enforcement programs. The semiannual reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations.

Information contained in the reports is reported by state and local governments in the ICIS Air database, which is operated and maintained by EPA's Office of Compliance. ICIS is EPA's database for the collection, maintenance, and retrieval of compliance data for industrial and government-owned facilities. EPA uses ICIS for tracking air pollution compliance and enforcement by local and state regulatory agencies, EPA regional offices, and EPA headquarters. EPA and its delegated Authorities can edit, store, retrieve, and analyze the data.

The records required by this regulation must be retained by the owner/operator for five years.

5(c) Small Entity Flexibility

A majority of the respondents are large entities (i.e., large businesses). However, the impact on small entities (i.e., small businesses) was taken into consideration during the development of the regulation. Due to technical considerations involving the process operations and the types of control equipment employed, the recordkeeping and reporting requirements are the same for both small and large entities. The Agency considers these to be the minimum requirements needed to ensure compliance and, therefore, cannot reduce them further for small entities. To the extent that larger businesses can use economies of scale to reduce their burden, the overall burden will be reduced.

5(d) Collection Schedule

The specific frequency for each information collection activity within this request is shown below in Table 1: Annual Respondent Burden and Cost – NESHAP for Flexible Polyurethane Foam Fabrication (40 CFR Part 63, Subpart M) (Renewal).

6. Estimating the Burden and Cost of the Collection

Table 1 documents the computation of individual burdens for the recordkeeping and reporting requirements applicable to the industry for the subpart included in this ICR. The individual burdens are expressed under standardized headings believed to be consistent with the concept of burden under the Paperwork Reduction Act. Where appropriate, specific tasks and major assumptions have been identified. Responses to this information collection are mandatory.

The 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.

6(a) Estimating Respondent Burden

The average annual burden to industry over the next three years from these recordkeeping and reporting requirements is estimated to be 148 hours (Average Labor Hours from TBL4-ResSUM of Flex Foam Fabrication RTR ICR_2027.08 Spreadsheet.xlsx). These hours are based on Agency studies and background documents from the development of the regulation, Agency knowledge and experience with the NESHAP program, the previously approved ICR, and any comments received.

6(b) Estimating Respondent Costs

(i) Estimating Labor Costs

This ICR uses the following labor rates:

Managerial	\$137.72 (\$65.58 + 110%)
Technical	\$106.35 (\$50.64 + 110%)
Clerical	\$42.95 (\$20.45 + 110%)

These rates are from the United States Department of Labor, Bureau of Labor Statistics, May 2019 “Table 2. Civilian Workers, by occupational and industry group.” The rates have been increased by 110 percent to account for the benefit packages available to those employed by private industry.

(ii) Estimating Capital/Startup and Operation and Maintenance Costs

The type of industry costs associated with the information collection activities in the subject standard are both labor costs, which are addressed elsewhere in this ICR, and the costs associated with continuous monitoring. The capital/startup costs are one-time costs when a facility becomes subject to the regulation. The annual operation and maintenance (O&M) costs are the ongoing costs to maintain the monitor and other costs such as photocopying and postage. There are no anticipated capital expenditures in the next three years as a result of compliance with these proposed amendments.

6(c) Estimating Agency Burden and Cost

The only costs to the Agency are those costs associated with analysis of the reported information. EPA's overall compliance and enforcement program includes activities such as the examination of records maintained by the respondents, periodic inspection of sources of emissions, and the publication and distribution of collected information.

The average annual Agency cost during the three years of the ICR is estimated to be \$2,500.

This cost is based on the average hourly labor rate as follows:

Managerial	\$66.63 (GS-13, Step 5, \$41.64 + 60%)
Technical	\$49.44 (GS-12, Step 1, \$30.90 + 60%)
Clerical	\$26.76 (GS-6, Step 3, \$16.72 + 60%)

These rates are from the Office of Personnel Management (OPM), 2019 General Schedule, which excludes locality rates of pay. The rates have been increased by 60 percent to account for the benefit packages available to government employees. Details upon which this estimate is based appear below in Table 2: Average Annual EPA Burden and Cost – NESHAP for Flexible Polyurethane Foam Fabrication (40 CFR Part 63, Subpart M) (Residual Risk and Technology Review).

6(d) Estimating the Respondent Universe and Total Burden and Costs

Based on our research for this ICR, on average over the next three years, approximately 3 existing respondents will be subject to these standards. It is also estimated that no additional respondent per year will become subject. The overall average number of respondents, as shown in the table below, is 3 per year.

The number of respondents is calculated using the following table that addresses the three years covered by this ICR:

Number of Respondents					
	Respondents That Submit Reports		Respondents That Do Not Submit Any Reports		
Year	(A) Number of New Respondents ¹	(B) Number of Existing Respondents	(C) Number of Existing Respondents that keep records but do not submit reports	(D) Number of Existing Respondents That Are Also New Respondents	(E) Number of Respondents (E=A+B+C-D)
1	0	3	0	0	3
2	0	3	0	0	3
3	0	3	0	0	3
Average	0	3	0	0	3

¹ New respondents include sources with constructed, reconstructed, and modified affected facilities.

Column D is subtracted to avoid double-counting respondents. As shown above, the average Number of Respondents over the three-year period of this ICR is 3.

The total number of annual responses per year is calculated using the following table:

Total Annual Responses				
(A) Information Collection Activity	(B) Number of Respondents	(C) Number of Responses	(D) Number of Existing Respondents That Keep Records but Do Not Submit Reports	(E) Total Annual Responses E=(BxC)+D
Initial notification	0	0	0	0
Application for construction/reconstruction	0	0	0	0
Notification of performance test	2	1	0	2
Notification of compliance status	3	1	0	3
Initial compliance report:				
Loop slitter sources	0	0	0	0
Flame lamination sources	2	1	0	2
Subsequent compliance reports:				
Loop slitter sources	3	1	0	3
Flame lamination sources	2	1	0	2
			Total	12

The number of Total Annual Responses is 12.

The average annual labor costs are \$15,000. Details regarding these estimates may be found in Average Labor Hours from TBL4-ResSUM of Flex Foam Fabrication RTR ICR_2027.08 Spreadsheet.xlsx, which is included in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0572).

6(e) Bottom Line Burden Hours and Cost Tables

The detailed bottom line burden hours and cost calculations for the respondents and the Agency are shown in Tables 1 and 2, respectively of Flex Foam Fabrication RTR ICR_2027.08 Spreadsheet.xlsx, which is included in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0572), and summarized below.

(i) Respondent Tally

The total annual labor hours are 148 hours at a cost of \$15,000. Details regarding these estimates may be found in Table 4 of Flex Foam Fabrication RTR ICR_2027.08 Spreadsheet.xlsx, which is included in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0572).

We assume that burdens for managerial tasks take 5% of the time required for technical tasks because the typical tasks for managers are to review and approve reports. Clerical burdens are assumed to take 10% of the time required for technical tasks because the typical duties of clerical staff are to proofread the reports, make copies and maintain records.

Furthermore, the annual public reporting and recordkeeping burden for this collection of information is estimated to average 5 hours per response.

There are no anticipated annual capital/startup and O&M costs in the next three years for this industry.

(ii) The Agency Tally

The average annual Agency burden and cost over the next three years is estimated to be 51 labor hours at a cost of \$2,500 and can be found in Table 8 of Flex Foam Fabrication RTR ICR_2027.08 Spreadsheet.xlsx, which is included in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0572).

We assume that burdens for managerial tasks take 5% of the time required for technical tasks because the typical tasks for managers are to review and approve reports. Clerical burdens are assumed to take 10% of the time required for technical tasks because the typical duties of clerical staff are to proofread the reports, make copies and maintain records.

6(f) Reasons for Change in Burden

There is a decrease in the total estimated respondent burden as currently identified in the OMB Inventory of Approved Burdens. This burden increase is due to adjustments EPA has made to account for industry consolidation that has occurred since the ICR was last approved. EPA has also updated corresponding labor costs to reflect current rates referenced from the Bureau of Labor Statistics. EPA has similarly adjusted the Agency labor burden to reflect industry consolidation over the past three years and has updated labor costs to reflect rates referenced from the Office of Personnel Management.

There is a decrease in the total annual O&M cost as compared to the previous ICR. Based on our search of the NEI and EPA's ECHO database (www.echo.epa.gov) and a review of active air emission permits, we estimate that 3 facilities are subject to the Flexible Polyurethane Foam Fabrication Operations NESHAP. A complete list of facilities is available in the modeling data file, which is available for review in the docket for this final rulemaking.

6(g) Burden Statement

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number. The OMB Control Numbers for EPA regulations are listed at 40 CFR Part 9 and 48 CFR Chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OAR-2020-0572. An electronic version of the public docket is available at <http://www.regulations.gov>, which may be used to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the docket ID number identified in this document. The documents are also available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566-1744, and the telephone number for the docket center is (202) 566-1752. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk

Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2020-0572 and OMB Control Number 2060-0516 in any correspondence.

Part B of the Supporting Statement

This part is not applicable because no statistical methods were used in collecting this information.