

**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 2027.10, OMB Control Number 2060-0516.

**1(b) Short Characterization/Abstract**

This supporting statement addresses information collection activities that will be imposed by amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Flexible Polyurethane Foam Fabrication Operations source category, 40 CFR part 63, subpart M, referred to as the Flexible Foam Fabrication Operations NESHAP. These amendments were proposed by notice published in the *Federal Register* on January 11, 2021 (86 FR 1868). The original Flexible Foam Fabrication NESHAP standards were proposed on August 8, 2001 (66 FR 41729), promulgated on April 14, 2003 (68 FR 18062), and 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 types of affected sources: 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.

As part of the residual risk and technology reviews (RTR) for the NESHAP, the Environmental Protection Agency (EPA) is amending the rule to: correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); add requirements for electronic reporting of performance test results and other compliance-related reports; include additional requirements for applicability/compliance performance testing; and add an emission limitation for specified affected sources. This information collection request documents the recordkeeping and reporting requirements and burden imposed by these amendments.

In general, all NESHAP standards require initial notification reports, performance tests, and periodic reports by the owners/operators of the affected facilities. 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 5 years following the date of such measurements, maintenance reports, and records. All reports required to be submitted electronically are submitted through the EPA's Central Data Exchange (CDX), using the Compliance and Emissions Data Reporting Interface (CEDRI), where the delegated state or local authority can review them. In the event that there is no such delegated authority, the EPA regional office can review them. All other 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 appropriate EPA regional office. The use of the term "Designated Administrator" throughout this document refers to the U.S. EPA or a delegated authority such as a state agency. The term "Administrator" alone refers to the U.S. EPA Administrator.

Based on our consultations with the Polyurethane Foam Association (PFA), our search of the National Emissions Inventory (NEI), and a review of active air emissions permits, we estimate that there are three flexible polyurethane foam fabrication facilities operating in the U.S. subject to the requirements of the Flexible Polyurethane Foam Fabrication Operations NESHAP. All existing respondents have loop slitting affected sources with two of three respondents also having flame lamination operations affected sources. 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). We expect that no facilities would be constructed or modified within 3 years after promulgation of the rule. Therefore, over the next 3 years, we estimate that three respondents per year will be subject to these standards, and the total labor, capital, and operations and maintenance costs imposed by the amendments will average to approximately \$21,600 per year for the first 3 years after the amendments are finalized, with most costs being incurred in the first year (an estimated \$49,400). The burden to the respondents from each facility is shown in Tables 1 through 4 and Table 9 of Attachment 1, which is available as an Excel workbook in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0572).

The total cost to the Designated Administrator during the 3 years of the ICR is estimated to average to \$2,480 per year as a result of the subject rule amendments, with most costs being incurred in the first year (an estimated \$2,770). This burden includes labor costs for the EPA and state and local authorities to implement the requirements in the NESHAP resulting from the subject rule amendments. This burden is shown in Tables 5 through 8 of Attachment 1.

## 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.

Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of HAP from stationary sources. Generally, the first stage involves establishing technology-based standards and the second stage involves evaluating those standards that are based on Maximum Achievable Control Technology (MACT) to determine whether additional standards are needed to address any remaining risk associated with HAP emissions. This second stage is commonly referred to as the "residual risk review." In addition to the residual risk review, the CAA also requires the EPA to review standards set under CAA section 112 every 8 years and revise the standards as necessary taking into account any "developments in practices, processes, or control technologies." This review is commonly referred to as the "technology review." When the two reviews are combined into a single rulemaking, it is commonly referred to as the "risk and technology review."

As part of the RTR for the NESHAP, EPA is requiring that owners or operators of affected sources 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 CDX, using CEDRI. For semiannual reports, EPA has developed 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. The EPA is requiring that 40 CFR part 63, subpart MMMMM performance test reports be submitted through the EPA's

ERT. The EPA is also amending 40 CFR part 63, subpart M, 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.

### **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 and ongoing 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 in place of a continuous emission monitor to determine compliance.

The notifications required in the standards are used to inform the Agency or Designated Administrator when a source is conducting performance tests and when a source becomes subject to the requirements of the regulations. In some cases, the Designated Administrator may choose to observe performance tests. The Designated Administrator may also use information to inform an inspection of 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 required semiannual (periodic) reports are used to determine periods of excess emissions, identify problems at the facility, verify operation/maintenance procedures, and demonstrate ongoing compliance with standards.

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

The requested recordkeeping and reporting will be required under 40 CFR Part 63, Subpart M.

#### **3(a) Non-duplication**

For reports required to be submitted electronically, the information is sent through the EPA's CDX, using CEDRI, where the appropriate EPA regional office can review it, as well as state and local agencies that have been delegated authority. If a state or local agency has adopted under its own authority its own standards for reporting or data collection, adherence to those non-Federal requirements does not constitute duplication.

For all other reports, 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 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**

The EPA solicited public comment on the subject rule's information collection activities as part of the same notice in which the EPA proposed to revise the subject rule. That notice, "National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations Residual Risk and Technology Review and Flexible Polyurethane Foam Production and Fabrication Area Source Technology Review, Proposed Rule," was published in the *Federal Register* on January 11, 2021 (86 FR 1868). The comment period closed on March 29, 2021, by which time the EPA received four comment submissions. None of the comments concerned the proposed information collection requirements.

Accordingly, most of the information requirements in the final rule are unchanged from those of the proposed rule. However, subsequent to proposing this information collection, the EPA revised its cost estimate for respondent reporting requirements to incorporate updated information about the conduct of, and cost associated with, performance testing for facilities with flame lamination affected sources. The revised cost estimate assumes that respondents will use off-site contractors for the required performance testing, which affects the cost estimate by decreasing respondent labor hours but adding non-labor costs. The revised cost estimate also reflects that a performance test is required for each flame lamination line at a facility. As shown in Table 4 of Attachment 1, the estimate of respondents' average annual cost increased from \$15,000 to \$21,600.

### **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 3 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 these standards as they were being developed, and the existing standards have been previously reviewed to determine the minimum information needed for compliance purposes. In developing this ICR, we consulted with internal experts at EPA's Office of Air Quality and Planning Standards (OAQPS) and the Polyurethane Foam Association.

### **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 Flexible Polyurethane Foam Fabrication Operations NESHAP standards require the respondents to maintain all records, including reports and notifications for at least 5 years. This is consistent with the General Provisions as applied to the standards. EPA believes that the 5-year records retention requirement is consistent with the Part 70 operating permits program and the 5-year statute of limitations on which the permit program is based. The retention of records for 5 years allows EPA to establish the compliance history of a source, to establish any pattern of noncompliance, and to determine the appropriate level of enforcement action. EPA has found that the most flagrant violators have violations extending beyond 5 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 and recordkeeping requirements in the standards do not include sensitive questions.

## **4. The Respondents and the Information Requested**

### **4(a) Respondents/NAICS Codes**

The respondents to the recordkeeping and reporting requirements are flexible polyurethane foam fabrication facilities. Corresponding to these establishments is 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:

<b>Notifications</b>	
Initial notifications	40 CFR 63.8816(b), 63.9(b)
Application for construction/reconstruction (note: new or reconstructed sources must instead submit this application in lieu of initial notifications)	40 CFR 63.8816(c), 63.9(b)(1)(iii)
Notification of performance test	40 CFR 63.8816(d), 63.7(b), 63.9(e)
Notification of compliance status	40 CFR 63.8816(e-h), 63.9(h)(2)(ii)
Notification of delay in electronic reporting due to an EPA system outage	40 CFR 63.8818(l)(4)
Notification of CMS performance evaluation	40 CFR 63.9(g)(1)

A source must make the following reports:

<b>Reports</b>	
Initial and subsequent semiannual compliance reports (flame lamination sources only)	40 CFR 63.8818(b)
Initial and subsequent annual compliance reports (loop slitter sources only)	40 CFR 63.8818(c)

A source must keep the following records:

<b>Recordkeeping</b>	
Record of all notifications and reports	40 CFR 63.8820(a)
Record of performance tests, operating parameters, and emissions deviations (flame lamination sources only)	40 CFR 63.8820(b)
Record of adhesives used, adhesives suppliers, and Method 311 tests (loop slitter sources only)	40 CFR 63.8820(c)
Five-year records retention	40 CFR 63.8822(b), 63.10(b)(1)

#### Subsequent Performance Test Requirements (Every 5 Years)

The subject RTR amendments add the requirement to conduct performance tests no less frequently than every 5 years (60 months) after the conduct of the initial performance test (or last

performance test conducted to demonstrate compliance with the Flexible Polyurethane Foam Fabrication Operations NESHAP), to ensure continued/ongoing compliance with the standards.

### Electronic Reporting

As part of the proposed RTR amendments, respondents are required to use the EPA's Electronic Reporting Tool (ERT) to develop performance test reports and submit them through the EPA's Compliance and Emissions Data Reporting Interface (CEDRI). The ERT is an application rather than a form, and the requirement to use the ERT is applicable to numerous subparts. The splash screen of the ERT contains a link to the Paperwork Reduction Act (PRA) requirements, such as the OMB Control Number, expiration date, and burden estimate for this and other subparts. In this proposal, respondents would also be required to submit notifications and semiannual reports through the EPA's CEDRI. The notification is an upload of their currently required notification in portable document format (PDF) file. The semiannual reports are to be created using the electronic template included with this Supporting Statement. The template is an Excel spreadsheet which can be partially completed and saved for subsequent semiannual reports to limit some of the repetitive data entry. It reflects the reporting elements required by the rule and does not impose additional reporting elements. For purposes of this ICR, it is assumed that there will be no additional burden associated with the proposed requirement for respondents to submit the notifications and reports electronically.

### **(ii) Respondent Activities**

<b>Respondent Activities</b>
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 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:

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

### 5(b) Collection Methodology and Management

Documentation from initial performance tests is used by the Agency to discern a source's compliance with the emission standards. Data and records maintained by the respondents are tabulated and published for use in compliance and enforcement programs. The semiannual (periodic) 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 Enforcement and Compliance Assurance. 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 5 years.

### 5(c) Small Entity Flexibility

Currently, all of the respondents are large entities (i.e., large businesses). However, the potential impact on any new small entities (i.e., small businesses) that may become subject to the rule 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.

### **5(d) Collection Schedule**

Upon promulgation of the amendments, owners or operators of flexible polyurethane foam fabrication operations have 180 days after the effective date of the final rule, or upon startup, whichever is later, by which to comply with most of the compliance testing, reporting and recordkeeping requirements associated with the amendments. For purposes of burden estimates, it is assumed that facilities will read the rule and perform the required compliance testing in year 1. For subsequent performance testing requirements (requirement to conduct every 5 years (60 months)), it is assumed that none of the three existing facilities will conduct performance tests in the first 3 years of this ICR. The specific frequency for each information collection activity within this request is shown in Tables 1 through 3 of Attachment 1, which is available as an Excel workbook in the docket for this action (Docket ID No. EPA- HQ-OAR-2020-0572).

## **6. Estimating the Burden and Cost of the Collection**

Tables 1 through 4 and Table 9 of Attachment 1 present an itemization and summary of the burden on the respondents to result from the subject RTR amendments for the recordkeeping and reporting requirements in the first 3 years following promulgation of the amendments to the Flexible Polyurethane Foam Fabrication Operations NESHAP. Tables 5 through 8 of Attachment 1 present an itemization and summary of the burden on the EPA and state and local authorities in the first 3 years following promulgation of the amendments to the Flexible Polyurethane Foam Fabrication Operations NESHAP.

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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

### **6(a) Estimating Respondent Burden**

The total burden to industry over the next 3 years from these recordkeeping and reporting requirements is estimated to be 338 hours, with an average annual burden of 113 hours. The average annual reporting hours are estimated at 87 hours and the average annual recordkeeping hours are estimated at 25 hours, as shown in Table 4 of Attachment 1. 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**

The information collection activities for sources subject to these requirements are presented in Tables 1 through 4 and Table 9 of Attachment 1. The total cost for each respondent

activity includes non-labor costs, capital/startup costs, and operation and maintenance (O&M) 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**

In addition to the labor costs, which are addressed elsewhere in this ICR, industry costs associated with the information collection activities resulting from the subject amendments to the Flexible Polyurethane Foam Fabrication Operations NESHAP include capital/startup costs and operation and maintenance costs associated with the cost to conduct performance testing. For purposes of burden estimates, these tests are assumed to be conducted by off-site contractors and are thus reflected as non-labor (capital/startup and O&M) costs in Table 9 of Attachment 1.

### **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 3 years of the ICR attributable to the subject amendments to the Flexible Polyurethane Foam Fabrication Operations NESHAP is estimated to be \$2,480. 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 are shown in Tables 5 through 8 of Attachment 1.

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

The total number of respondents is also referred to as the respondent universe. Based on research conducted for the subject amendments to the Flexible Polyurethane Foam Fabrication Operations NESHAP, three facilities are currently operating and subject to the standards, and no new sources are assumed in the first 3 years after promulgation of the subject amendments. It is assumed that all of the facilities will begin complying within one year of promulgation of the subject amendments and will be subject to recordkeeping and reporting requirements in each of the 3 years covered by this ICR.

The number of respondents is calculated using the following table that addresses the 3 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 <sup>1</sup>	(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

<sup>1</sup> 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 3-year period of this ICR is three.

### 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 Attachment 1, which is available as an Excel workbook in the docket for this action (Docket ID No. EPA-HQ-OAR-2020-0572), and they are summarized below.

#### (i) Respondent Tally

Over the first 3 years after finalizing the amendments, the total labor hours are estimated to be 338 hours at a cost of approximately \$34,600. The average annual labor hours over those 3 years is estimated to be 113 hours at a cost of \$11,500 per year. Furthermore, the total reporting and recordkeeping burden for this collection of information is estimated to average 8 hours per response. Details regarding these estimates may be found in Tables 1 through 4 of Attachment 1.

We assume that burdens for managerial tasks take 5 percent 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 percent of the time required for technical tasks because the typical duties of clerical staff are to proofread the reports, make copies and maintain records.

The total operation and maintenance costs associated with the RTR's additional performance test requirements assume that an off-site contractor will perform the testing and prepare the report of results of each test. These non-labor costs are estimated to total approximately \$30,400 over the 3-year period, at an estimated average annual cost of \$10,100 per year.

### **(iii) The Agency Tally**

The average annual Agency (Designated Administrator) burden and cost over the next 3 years is estimated to be 51 labor hours at a cost of \$2,480, as shown in Tables 5 through 8 of Attachment 1.

We assume that burdens for managerial tasks take 5 percent 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 percent 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 decrease 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. The EPA has similarly adjusted the Agency labor burden to reflect industry consolidation over the past 3 years and has updated labor costs to reflect rates referenced from the Office of Personnel Management.

The amendments to the Flexible Polyurethane Fabrication Operations NESHAP (40 CFR part 63, subpart M) addressed in this ICR: correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); add requirements for electronic reporting of performance test results and other compliance-related reports; include additional requirements for compliance performance testing; and add an emission limitation for specified affected sources. In the subject rule, pursuant to CAA section 112(d)(2) and (3),<sup>1</sup> EPA is adding an emission limitation for existing flame lamination

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<sup>1</sup> The EPA has authority under CAA section 112(d)(2) and (3) to set MACT standards for previously unregulated HAP emissions. Moreover, the D.C. Circuit has held that the EPA has the obligation to address any previously unregulated HAP emissions as part of the 8-year review under CAA section 112(d)(6). *See LEAN v. EPA*, 955 F.3d 1088, 1091 (D.C. Cir. 2020). The EPA also retains the discretion to revise a MACT standard under the authority of CAA section 112(d)(2) and (3) (*see Portland Cement Ass'n v. EPA*, 665 F.3d 177, 189 (D.C. Cir. 2011), such as when it identifies an error in the original standard. *See also, Medical Waste*

lines. The EPA also requires that owners or operators of all facilities that perform flame lamination subject to the rule conduct performance tests every 5 years to demonstrate continued compliance with the NESHAP. The respondent burden estimates for the subject rule requirements include: becoming familiar with the new reporting and recordkeeping requirements; providing notification of compliance status and performance tests; conducting performance tests for flame lamination lines; recording information; and submitting compliance reports for all sources. The Delegated Administrator/Agency burden estimates for the requirements include: reviewing the initial performance test report, reviewing entering and updating information into the appropriate recordkeeping system; and reviewing compliance status and reports for all sources. Adjustments for these amendments are reflected in Attachment 1 to this ICR Supporting Statement.

### **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 EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue, 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 Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742. 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.

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*Institute v. EPA*, 645 F.3d 420, 426 (D.C. Cir. 2011) (upholding the EPA action establishing MACT floors, based on post-compliance data, when originally established floors were improperly established)).

**Appendix A** – Draft Electronic Reporting Template (see Docket ID Number EPA-HQ-OAR-2020-0572).

**Attachment 1:**

Information Collection Request (ICR) Workbook for

National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane  
Foam Fabrication Operations (40 CFR Part 63, Subpart M).

Excel workbook: *Flex Foam Fabrication RTR\_ICR Workbook\_2027.10.xlsx*