

§ 63.5 Preconstruction review and notification requirements.

(a) **Applicability.**

(1) This section implements the preconstruction review requirements of section 112(i)(1). After the effective date of a relevant standard, promulgated pursuant to section 112(d), (f), or (h) of the Act, under this part, the preconstruction review requirements in this section apply to the owner or operator of new affected sources and reconstructed affected sources that are major-emitting as specified in this section. New and reconstructed affected sources that commence construction or reconstruction before the effective date of a relevant standard are not subject to the preconstruction review requirements specified in [paragraphs \(b\)\(3\), \(d\), and \(e\)](#) of this section.

(2) This section includes notification requirements for new affected sources and reconstructed affected sources that are not major-emitting affected sources and that are or become subject to a relevant promulgated emission standard after the effective date of a relevant standard promulgated under this part.

(b) **Requirements for existing, newly constructed, and reconstructed sources.**

(1) A new affected source for which construction commences after proposal of a relevant standard is subject to relevant standards for new affected sources, including compliance dates. An affected source for which reconstruction commences after proposal of a relevant standard is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

(2) [Reserved]

(3) After the effective date of any relevant standard promulgated by the Administrator under this part, no person may, without obtaining written approval in advance from the Administrator in accordance with the procedures specified in [paragraphs \(d\) and \(e\)](#) of this section, do any of the following:

(i) Construct a new affected source that is major-emitting and subject to such standard;

(ii) Reconstruct an affected source that is major-emitting and subject to such standard; or

(iii) Reconstruct a major source such that the source becomes an affected source that is major-emitting and subject to the standard.

(4) After the effective date of any relevant standard promulgated by the Administrator under this part, an owner or operator who constructs a new affected source that is not major-emitting or reconstructs an affected source that is not major-emitting that is subject to such standard, or reconstructs a source such that the source becomes an affected source subject to the standard, must notify the Administrator of the intended construction or reconstruction. The notification must be submitted in accordance with the procedures in [§ 63.9\(b\)](#).

(5) [Reserved]

(6) After the effective date of any relevant standard promulgated by the Administrator under this part, equipment added (or a process change) to an affected source that is within the scope of the definition of affected source under the relevant standard must be considered part of the affected source and subject to all provisions of the relevant standard established for that affected source.

(c) [Reserved]

(d) ***Application for approval of construction or reconstruction.*** The provisions of this paragraph implement section 112(i)(1) of the Act.

(1) ***General application requirements.***

(i) An owner or operator who is subject to the requirements of [paragraph \(b\)\(3\)](#) of this section must submit to the Administrator an application for approval of the construction or reconstruction. The application must be submitted as soon as practicable before actual construction or reconstruction begins. The application for approval of construction or reconstruction may be used to fulfill the initial notification requirements of [§ 63.9\(b\)\(5\)](#). The owner or operator may submit the application for approval well in advance of the date actual construction or reconstruction begins in order to ensure a timely review by the Administrator and that the planned date to begin will not be delayed.

(ii) A separate application shall be submitted for each construction or reconstruction. Each application for approval of construction or reconstruction shall include at a minimum:

(A) The applicant's name and address;

(B) A notification of intention to construct a new major affected source or make any physical or operational change to a major affected source that may meet or has been determined to meet the criteria for a reconstruction, as defined in [§ 63.2](#) or in the relevant standard;

(C) The address (i.e., physical location) or proposed address of the source;

(D) An identification of the relevant standard that is the basis of the application;

(E) The expected date of the beginning of actual construction or reconstruction;

(F) The expected completion date of the construction or reconstruction;

(G) [Reserved]

(H) The type and quantity of hazardous air pollutants emitted by the source, reported in units and averaging times and in accordance with the test methods specified in the relevant standard, or if actual emissions data are not yet available, an estimate of the type and quantity of hazardous air pollutants expected to be emitted by the source reported in units and averaging times specified in the relevant standard. The owner or operator may submit percent reduction information if a relevant standard is established in terms of percent reduction. However, operating parameters, such as flow rate, shall be included in the submission to the extent that they demonstrate performance and compliance; and

(I) [Reserved]

(J) Other information as specified in [paragraphs \(d\)\(2\)](#) and [\(d\)\(3\)](#) of this section.

(iii) An owner or operator who submits estimates or preliminary information in place of the actual emissions data and analysis required in [paragraphs \(d\)\(1\)\(ii\)\(H\)](#) and [\(d\)\(2\)](#) of this section shall submit the actual, measured emissions data and other correct information as soon as available but no later than with the notification of compliance status required in [§ 63.9\(h\)](#) (see [§ 63.9\(h\)\(5\)](#)).

(2) **Application for approval of construction.** Each application for approval of construction must include, in addition to the information required in [paragraph \(d\)\(1\)\(ii\)](#) of this section, technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including an identification of each type of emission point for each type of hazardous air pollutant that is emitted (or could reasonably be anticipated to be emitted) and a description of the planned air pollution control system (equipment or method) for each emission point. The description of the equipment to be used for the control of emissions must include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each control device. The description of the method to be used for the control of emissions must include an estimated control efficiency (percent) for that method. Such technical information must include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations.

(3) **Application for approval of reconstruction.** Each application for approval of reconstruction shall include, in addition to the information required in [paragraph \(d\)\(1\)\(ii\)](#) of this section—

(i) A brief description of the affected source and the components that are to be replaced;

(ii) A description of present and proposed emission control systems (i.e., equipment or methods). The description of the equipment to be used for the control of emissions shall include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each control device. The description of the method to be used for the control of emissions shall include an estimated control efficiency (percent) for that method. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations;

(iii) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new source;

(iv) The estimated life of the affected source after the replacements; and

(v) A discussion of any economic or technical limitations the source may have in complying with relevant standards or other requirements after the proposed replacements. The discussion shall be sufficiently detailed to demonstrate to the Administrator's satisfaction that the technical or economic limitations affect the source's ability to comply with the relevant standard and how they do so.

(vi) If in the application for approval of reconstruction the owner or operator designates the affected source as a reconstructed source and declares that there are no economic or technical limitations to prevent the source from complying with all relevant standards or other requirements, the owner or operator need not submit the information required in [paragraphs \(d\)\(3\)\(iii\)](#) through [\(d\)\(3\)\(v\)](#) of this section.

(4) **Additional information.** The Administrator may request additional relevant information after the submittal of an application for approval of construction or reconstruction.

(e) **Approval of construction or reconstruction.**

(1)

(i) If the Administrator determines that, if properly constructed, or reconstructed, and operated, a new or existing source for which an application under [paragraph \(d\)](#) of this section was submitted will not cause emissions in violation of the relevant standard(s) and any other federally enforceable requirements, the Administrator will approve the construction or reconstruction.

(ii) In addition, in the case of reconstruction, the Administrator's determination under this paragraph will be based on:

(A) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new source;

(B) The estimated life of the source after the replacements compared to the life of a comparable entirely new source;

(C) The extent to which the components being replaced cause or contribute to the emissions from the source; and

(D) Any economic or technical limitations on compliance with relevant standards that are inherent in the proposed replacements.

(2)

(i) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of construction or reconstruction within 60 calendar days after receipt of sufficient information to evaluate an application submitted under [paragraph \(d\)](#) of this section. The 60-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

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

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

(ii) Notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator to enable further action on the application.

(4) 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 calendar days of presentation of additional information or arguments (if the application is complete), or within 60 calendar days after the final date specified for presentation if no presentation is made.

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

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

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

(f) *Approval of construction or reconstruction based on prior State preconstruction review.*

(1) Preconstruction review procedures that a State utilizes for other purposes may also be utilized for purposes of this section if the procedures are substantially equivalent to those specified in this section. The Administrator will approve an application for construction or reconstruction specified in [paragraphs \(b\)\(3\)](#) and [\(d\)](#) of this section if the owner or operator of a new affected source or reconstructed affected source, who is subject to such requirement meets the following conditions:

(i) The owner or operator of the new affected source or reconstructed affected source has undergone a preconstruction review and approval process in the State in which the source is (or would be) located and has received a federally enforceable construction permit that contains a finding that the source will meet the relevant promulgated emission standard, if the source is properly built and operated.

(ii) Provide a statement from the State or other evidence (such as State regulations) that it considered the factors specified in [paragraph \(e\)\(1\)](#) of this section.

(2) The owner or operator must submit to the Administrator the request for approval of construction or reconstruction under this [paragraph \(f\)\(2\)](#)

no later than the application deadline specified in [paragraph \(d\)\(1\)](#) of this section (see also [§ 63.9\(b\)\(2\)](#)). The owner or operator must include in the request information sufficient for the Administrator's determination. The Administrator will evaluate the owner or operator's request in accordance with the procedures specified in [paragraph \(e\)](#) of this section. The Administrator may request additional relevant information after the submittal of a request for approval of construction or reconstruction under this [paragraph \(f\)\(2\)](#).

§ 63.6 Compliance with standards and maintenance requirements.

(a) **Applicability.**

(1) The requirements in this section apply to the owner or operator of affected sources for which any relevant standard has been established pursuant to section 112 of the Act and the applicability of such requirements is set out in accordance with [§ 63.1\(a\)\(4\)](#) unless—

(i) The Administrator (or a State with an approved permit program) has granted an extension of compliance consistent with [paragraph \(i\)](#) of this section; or

(ii) The President has granted an exemption from compliance with any relevant standard in accordance with section 112(i)(4) of the Act.

(2) If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source, such source shall be subject to the relevant emission standard or other requirement.

(b) **Compliance dates for new and reconstructed sources.**

(1) Except as specified in [paragraphs \(b\)\(3\)](#) and [\(4\)](#) of this section, the owner or operator of a new or reconstructed affected source for which construction or reconstruction commences after proposal of a relevant standard that has an initial startup before the effective date of a relevant standard established under this part pursuant to section 112(d), (f), or (h) of the Act must comply with such standard not later than the standard's effective date.

(2) Except as specified in [paragraphs \(b\)\(3\)](#) and [\(4\)](#) of this section, the owner or operator of a new or reconstructed affected source that has an initial startup after the effective date of a relevant standard established under this part pursuant to section 112(d), (f), or (h) of the Act must comply with such standard upon startup of the source.

(3) The owner or operator of an affected source for which construction or reconstruction is commenced after the proposal date of a relevant standard established under this part pursuant to section 112(d), 112(f), or 112(h) of the Act but before the effective date (that is, promulgation) of such standard shall comply with the relevant emission standard not later than the date 3 years after the effective date if:

(i) The promulgated standard (that is, the relevant standard) is more stringent than the proposed standard; for purposes of this paragraph, a finding that controls or compliance methods are “more stringent” must include control technologies or performance criteria and compliance or compliance assurance methods that are different but are substantially equivalent to those required by the promulgated rule, as determined by the Administrator (or his or her authorized representative); and

(ii) The owner or operator complies with the standard as proposed during the 3-year period immediately after the effective date.

(4) The owner or operator of an affected source for which construction or reconstruction is commenced after the proposal date of a relevant standard established pursuant to section 112(d) of the Act but before the proposal date of a relevant standard established pursuant to section 112(f) shall not be required to comply with the section 112(f) emission standard until the date 10 years after the date construction or reconstruction is commenced, except that, if the section 112(f) standard is promulgated more than 10 years after construction or reconstruction is commenced, the owner or operator must comply with the standard as provided in [paragraphs \(b\)\(1\)](#) and [\(2\)](#) of this section.

(5) The owner or operator of a new source that is subject to the compliance requirements of [paragraph \(b\)\(3\)](#) or [\(4\)](#) of this section must notify the Administrator in accordance with [§ 63.9\(d\)](#)

(6) [Reserved]

(7) When an area source increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source, the portion of the facility that meets the definition of a new affected source must comply with all requirements of that standard applicable to new sources. The source owner or operator must comply with the relevant standard upon startup.

(c) ***Compliance dates for existing sources.***

(1) After the effective date of a relevant standard established under this part pursuant to section 112(d) or 112(h) of the Act, the owner or operator of an existing source shall comply with such standard by the compliance date established by the Administrator in the applicable subpart(s) of this part, except as provided in [§ 63.1\(c\)\(6\)\(i\)](#). Except as otherwise provided for in section 112 of the Act, in no case will the compliance date established for an existing source in an applicable subpart of this part exceed 3 years after the effective date of such standard.

(2) If an existing source is subject to a standard established under this part pursuant to section 112(f) of the Act, the owner or operator must comply with the standard by the date 90 days after the standard's effective date, or by the date specified in an extension granted to the source by the Administrator under [paragraph \(i\)\(4\)\(ii\)](#) of this section, whichever is later.

(3)-(4) [Reserved]

(5) Except as provided in [paragraph \(b\)\(7\)](#) of this section, the owner or operator of an area source that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source and meets the definition of an existing source in the applicable major source standard shall be subject to relevant standards for existing sources. Except as provided in [paragraph § 63.1\(c\)\(6\)\(i\)\(B\)](#), such sources must comply by the date specified in the standards for existing area sources that become major sources. If no such compliance date is specified in the standards, the source shall have a period of time to comply with the relevant emission standard that is equivalent to the compliance period specified in the relevant standard for existing sources in existence at the time the standard becomes effective.

(d) [Reserved]

(e) ***Operation and maintenance requirements.***

(1)

(i) At all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. During a period of startup, shutdown, or malfunction, this general duty to minimize emissions requires that the owner or operator reduce emissions from the affected source to the greatest extent which is consistent with safety and good air pollution control practices. The general duty to minimize emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation 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 operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in [paragraph \(e\)\(3\)](#) of this section), review of operation and maintenance records, and inspection of the source.

(ii) Malfunctions must be corrected as soon as practicable after their occurrence. To the extent that an unexpected event arises during a startup, shutdown, or malfunction, an owner or operator must comply by minimizing emissions during such a startup, shutdown, and malfunction event consistent with safety and good air pollution control practices.

(iii) Operation and maintenance requirements established pursuant to section 112 of the Act are enforceable independent of emissions limitations or other requirements in relevant standards.

(2) [Reserved]

(3) Startup, shutdown, and malfunction plan.

(i) The owner or operator of an affected source must develop a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown, and malfunction; and a program of corrective action for malfunctioning process, air pollution control, and monitoring equipment used to comply with the relevant standard. The startup, shutdown, and malfunction plan does not need to address any scenario that would not cause the source to exceed an applicable emission limitation in the relevant standard. This plan must be developed by the owner or operator by the source's compliance date for that relevant standard. The purpose of the startup, shutdown, and malfunction plan is to—

(A) Ensure that, at all times, the owner or operator operates and maintains each affected source, including associated air pollution control and monitoring equipment, in a manner which satisfies the general duty to minimize emissions established by [paragraph \(e\)\(1\)\(i\)](#) of this section;

(B) Ensure that owners or operators are prepared to correct malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of hazardous air pollutants; and

(C) Reduce the reporting burden associated with periods of startup, shutdown, and malfunction (including corrective action taken to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation).

(ii) [Reserved]

(iii) When actions taken by the owner or operator during a startup or shutdown (and the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction (including actions taken to correct a malfunction) are consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator must keep records for that event which demonstrate that the procedures specified in the plan were followed. These records may take the form of a “checklist,” or other effective form of recordkeeping that confirms

conformance with the startup, shutdown, and malfunction plan and describes the actions taken for that event. In addition, the owner or operator must keep records of these events as specified in paragraph 63.10(b), including records of the occurrence and duration of each startup or shutdown (if the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction of operation and each malfunction of the air pollution control and monitoring equipment. Furthermore, the owner or operator shall confirm that actions taken during the relevant reporting period during periods of startup, shutdown, and malfunction were consistent with the affected source's startup, shutdown and malfunction plan in the semiannual (or more frequent) startup, shutdown, and malfunction report required in [§ 63.10\(d\)\(5\)](#).

(iv) If an action taken by the owner or operator during a startup, shutdown, or malfunction (including an action taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, and the source exceeds any applicable emission limitation in the relevant emission standard, then the owner or operator must record the actions taken for that event and must report such actions within 2 working days after commencing actions inconsistent with the plan, followed by a letter within 7 working days after the end of the event, in accordance with [§ 63.10\(d\)\(5\)](#) (unless the owner or operator makes alternative reporting arrangements, in advance, with the Administrator).

(v) The owner or operator must maintain at the affected source a current startup, shutdown, and malfunction plan and must make the plan available upon request for inspection and copying by the Administrator. In addition, if the startup, shutdown, and malfunction plan is subsequently revised as provided in [paragraph \(e\)\(3\)\(viii\)](#) of this section, the owner or operator must maintain at the affected source each previous (i.e., superseded) version of the startup, shutdown, and malfunction plan, and must make each such previous version available for inspection and copying by the Administrator for a period of 5 years after revision of the plan. If at any time after adoption of a startup, shutdown, and malfunction plan the affected source ceases operation or is otherwise no longer subject to the provisions of this part, the owner or operator must retain a copy of the most recent plan for 5 years from the date the source ceases operation or is no longer subject to this part and

must make the plan available upon request for inspection and copying by the Administrator. The Administrator may at any time request in writing that the owner or operator submit a copy of any startup, shutdown, and malfunction plan (or a portion thereof) which is maintained at the affected source or in the possession of the owner or operator. Upon receipt of such a request, the owner or operator must promptly submit a copy of the requested plan (or a portion thereof) to the Administrator. The owner or operator may elect to submit the required copy of any startup, shutdown, and malfunction plan to the Administrator in an electronic format. If the owner or operator claims that any portion of such a startup, shutdown, and malfunction plan is confidential business information entitled to protection from disclosure under section 114(c) of the Act or [40 CFR 2.301](#), the material which is claimed as confidential must be clearly designated in the submission.

(vi) To satisfy the requirements of this section to develop a startup, shutdown, and malfunction plan, the owner or operator may use the affected source's standard operating procedures (SOP) manual, or an Occupational Safety and Health Administration (OSHA) or other plan, provided the alternative plans meet all the requirements of this section and are made available for inspection or submitted when requested by the Administrator.

(vii) Based on the results of a determination made under [paragraph \(e\) \(1\)\(i\)](#) of this section, the Administrator may require that an owner or operator of an affected source make changes to the startup, shutdown, and malfunction plan for that source. The Administrator must require appropriate revisions to a startup, shutdown, and malfunction plan, if the Administrator finds that the plan:

(A) Does not address a startup, shutdown, or malfunction event that has occurred;

(B) Fails to provide for the operation of the source (including associated air pollution control and monitoring equipment) during a startup, shutdown, or malfunction event in a manner consistent with the general duty to minimize emissions established by [paragraph \(e\) \(1\)\(i\)](#) of this section;

(C) Does not provide adequate procedures for correcting malfunctioning process and/or air pollution control and monitoring equipment as quickly as practicable; or

(D) Includes an event that does not meet the definition of startup, shutdown, or malfunction listed in [§ 63.2](#).

(viii) The owner or operator may periodically revise the startup, shutdown, and malfunction plan for the affected source as necessary to satisfy the requirements of this part or to reflect changes in equipment or procedures at the affected source. Unless the permitting authority provides otherwise, the owner or operator may make such revisions to the startup, shutdown, and malfunction plan without prior approval by the Administrator or the permitting authority. However, each such revision to a startup, shutdown, and malfunction plan must be reported in the semiannual report required by [§ 63.10\(d\)\(5\)](#). If the startup, shutdown, and malfunction plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the startup, shutdown, and malfunction plan at the time the owner or operator developed the plan, the owner or operator must revise the startup, shutdown, and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control and monitoring equipment. In the event that the owner or operator makes any revision to the startup, shutdown, and malfunction plan which alters the scope of the activities at the source which are deemed to be a startup, shutdown, or malfunction, or otherwise modifies the applicability of any emission limit, work practice requirement, or other requirement in a standard established under this part, the revised plan shall not take effect until after the owner or operator has provided a written notice describing the revision to the permitting authority.

(ix) The title V permit for an affected source must require that the owner or operator develop a startup, shutdown, and malfunction plan which conforms to the provisions of this part, but may do so by citing to the relevant subpart or subparagraphs of [paragraph \(e\)](#) of this section. However, any revisions made to the startup, shutdown, and malfunction plan in accordance with the procedures established by this part shall not be deemed to constitute permit revisions under [part 70](#) or [part 71 of this](#)

[chapter](#) and the elements of the startup, shutdown, and malfunction plan shall not be considered an applicable requirement as defined in [§ 70.2](#) and [§ 71.2 of this chapter](#). Moreover, none of the procedures specified by the startup, shutdown, and malfunction plan for an affected source shall be deemed to fall within the permit shield provision in section 504(f) of the Act.

(f) ***Compliance with nonopacity emission standards*** —

(1) ***Applicability.*** The non-opacity emission standards set forth in this part shall apply at all times except as otherwise specified in an applicable subpart. If a startup, shutdown, or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the non-opacity emission standards set forth in this part, then that emission point must still be required to comply with the non-opacity emission standards and other applicable requirements.

(2) ***Methods for determining compliance.***

(i) The Administrator will determine compliance with nonopacity emission standards in this part based on the results of performance tests conducted according to the procedures in [§ 63.7](#), unless otherwise specified in an applicable subpart of this part.

(ii) The Administrator will determine compliance with nonopacity emission standards in this part by evaluation of an owner or operator's conformance with operation and maintenance requirements, including the evaluation of monitoring data, as specified in [§ 63.6\(e\)](#) and applicable [subparts of this part](#).

(iii) If an affected source conducts performance testing at startup to obtain an operating permit in the State in which the source is located, the results of such testing may be used to demonstrate compliance with a relevant standard if—

(A) The performance test was conducted within a reasonable amount of time before an initial performance test is required to be conducted under the relevant standard;

(B) The performance test was conducted under representative operating conditions for the source;

(C) The performance test was conducted and the resulting data were reduced using EPA-approved test methods and procedures, as specified in [§ 63.7\(e\) of this subpart](#); and

(D) The performance test was appropriately quality-assured, as specified in [§ 63.7\(c\)](#).

(iv) The Administrator will determine compliance with design, equipment, work practice, or operational emission standards in this part by review of records, inspection of the source, and other procedures specified in applicable [subparts of this part](#).

(v) The Administrator will determine compliance with design, equipment, work practice, or operational emission standards in this part by evaluation of an owner or operator's conformance with operation and maintenance requirements, as specified in [paragraph \(e\)](#) of this section and applicable [subparts of this part](#).

(3) ***Finding of compliance.*** The Administrator will make a finding concerning an affected source's compliance with a non-opacity emission standard, as specified in [paragraphs \(f\)\(1\) and \(2\)](#) of this section, upon obtaining all the compliance information required by the relevant standard (including the written reports of performance test results, monitoring results, and other information, if applicable), and information available to the Administrator pursuant to [paragraph \(e\)\(1\)\(i\)](#) of this section.

(g) ***Use of an alternative nonopacity emission standard.***

(1) If, in the Administrator's judgment, an owner or operator of an affected source has established that an alternative means of emission limitation will achieve a reduction in emissions of a hazardous air pollutant from an affected source at least equivalent to the reduction in emissions of that pollutant from that source achieved under any design, equipment, work practice, or operational emission standard, or combination thereof, established under this part pursuant to section 112(h) of the Act, the Administrator will publish in the Federal Register a notice permitting the use of the alternative emission standard for purposes of compliance with the promulgated standard. Any Federal Register notice under this paragraph shall be published only after the public is notified and given the opportunity to comment. Such notice will restrict the permission to the

stationary source(s) or category(ies) of sources from which the alternative emission standard will achieve equivalent emission reductions. The Administrator will condition permission in such notice on requirements to assure the proper operation and maintenance of equipment and practices required for compliance with the alternative emission standard and other requirements, including appropriate quality assurance and quality control requirements, that are deemed necessary.

(2) An owner or operator requesting permission under this paragraph shall, unless otherwise specified in an applicable subpart, submit a proposed test plan or the results of testing and monitoring in accordance with [§ 63.7](#) and [§ 63.8](#), a description of the procedures followed in testing or monitoring, and a description of pertinent conditions during testing or monitoring. Any testing or monitoring conducted to request permission to use an alternative nonopacity emission standard shall be appropriately quality assured and quality controlled, as specified in [§ 63.7](#) and [§ 63.8](#).

(3) The Administrator may establish general procedures in an applicable subpart that accomplish the requirements of [paragraphs \(g\)\(1\)](#) and [\(g\)\(2\)](#) of this section.

(h) ***Compliance with opacity and visible emission standards*** —

(1) ***Applicability.*** The opacity and visible emission standards set forth in this part must apply at all times except as otherwise specified in an applicable subpart. If a startup, shutdown, or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the opacity and visible emission standards set forth in this part, then that emission point shall still be required to comply with the opacity and visible emission standards and other applicable requirements.

(2) ***Methods for determining compliance.***

(i) The Administrator will determine compliance with opacity and visible emission standards in this part based on the results of the test method specified in an applicable subpart. Whenever a continuous opacity monitoring system (COMS) is required to be installed to determine compliance with numerical opacity emission standards in this part, compliance with opacity emission standards in this part shall be determined by using the results from the COMS. Whenever an opacity

emission test method is not specified, compliance with opacity emission standards in this part shall be determined by conducting observations in accordance with Test Method 9 in appendix A of [part 60 of this chapter](#) or the method specified in [paragraph \(h\)\(7\)\(ii\)](#) of this section. Whenever a visible emission test method is not specified, compliance with visible emission standards in this part shall be determined by conducting observations in accordance with Test Method 22 in appendix A of [part 60 of this chapter](#).

(ii) [Reserved]

(iii) If an affected source undergoes opacity or visible emission testing at startup to obtain an operating permit in the State in which the source is located, the results of such testing may be used to demonstrate compliance with a relevant standard if—

(A) The opacity or visible emission test was conducted within a reasonable amount of time before a performance test is required to be conducted under the relevant standard;

(B) The opacity or visible emission test was conducted under representative operating conditions for the source;

(C) The opacity or visible emission test was conducted and the resulting data were reduced using EPA-approved test methods and procedures, as specified in [§ 63.7\(e\)](#); and

(D) The opacity or visible emission test was appropriately quality-assured, as specified in [§ 63.7\(c\)](#) of this section.

(3) [Reserved]

(4) **Notification of opacity or visible emission observations.** The owner or operator of an affected source shall notify the Administrator in writing of the anticipated date for conducting opacity or visible emission observations in accordance with [§ 63.9\(f\)](#), if such observations are required for the source by a relevant standard.

(5) **Conduct of opacity or visible emission observations.** When a relevant standard under this part includes an opacity or visible emission standard, the owner or operator of an affected source shall comply with the following:

(i) For the purpose of demonstrating initial compliance, opacity or visible emission observations shall be conducted concurrently with the initial performance test required in [§ 63.7](#) unless one of the following conditions applies:

(A) If no performance test under [§ 63.7](#) is required, opacity or visible emission observations shall be conducted within 60 days after achieving the maximum production rate at which a new or reconstructed source will be operated, but not later than 120 days after initial startup of the source, or within 120 days after the effective date of the relevant standard in the case of new sources that start up before the standard's effective date. If no performance test under [§ 63.7](#) is required, opacity or visible emission observations shall be conducted within 120 days after the compliance date for an existing or modified source; or

(B) If visibility or other conditions prevent the opacity or visible emission observations from being conducted concurrently with the initial performance test required under [§ 63.7](#), or within the time period specified in [paragraph \(h\)\(5\)\(i\)\(A\)](#) of this section, the source's owner or operator shall reschedule the opacity or visible emission observations as soon after the initial performance test, or time period, as possible, but not later than 30 days thereafter, and shall advise the Administrator of the rescheduled date. The rescheduled opacity or visible emission observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under [§ 63.7](#). The visible emissions observer shall determine whether visibility or other conditions prevent the opacity or visible emission observations from being made concurrently with the initial performance test in accordance with procedures contained in Test Method 9 or Test Method 22 in appendix A of [part 60 of this chapter](#).

(ii) For the purpose of demonstrating initial compliance, the minimum total time of opacity observations shall be 3 hours (30 6-minute averages) for the performance test or other required set of observations (e.g., for fugitive-type emission sources subject only to an opacity emission standard).

(iii) The owner or operator of an affected source to which an opacity or visible emission standard in this part applies shall conduct opacity or

visible emission observations in accordance with the provisions of this section, record the results of the evaluation of emissions, and report to the Administrator the opacity or visible emission results in accordance with the provisions of [§ 63.10\(d\)](#).

(iv) [Reserved]

(v) Opacity readings of portions of plumes that contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity emission standards.

(6) **Availability of records.** The owner or operator of an affected source shall make available, upon request by the Administrator, such records that the Administrator deems necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification.

(7) **Use of a continuous opacity monitoring system.**

(i) The owner or operator of an affected source required to use a continuous opacity monitoring system (COMS) shall record the monitoring data produced during a performance test required under [§ 63.7](#) and shall furnish the Administrator a written report of the monitoring results in accordance with the provisions of [§ 63.10\(e\)\(4\)](#).

(ii) Whenever an opacity emission test method has not been specified in an applicable subpart, or an owner or operator of an affected source is required to conduct Test Method 9 observations (see appendix A of [part 60 of this chapter](#)), the owner or operator may submit, for compliance purposes, COMS data results produced during any performance test required under [§ 63.7](#) in lieu of Method 9 data. If the owner or operator elects to submit COMS data for compliance with the opacity emission standard, he or she shall notify the Administrator of that decision, in writing, simultaneously with the notification under [§ 63.7\(b\)](#) of the date the performance test is scheduled to begin. Once the owner or operator of an affected source has notified the Administrator to that effect, the COMS data results will be used to determine opacity compliance during subsequent performance tests required under [§ 63.7](#), unless the owner or operator notifies the Administrator in writing to the contrary not later

than with the notification under [§ 63.7\(b\)](#) of the date the subsequent performance test is scheduled to begin.

(iii) For the purposes of determining compliance with the opacity emission standard during a performance test required under [§ 63.7](#) using COMS data, the COMS data shall be reduced to 6-minute averages over the duration of the mass emission performance test.

(iv) The owner or operator of an affected source using a COMS for compliance purposes is responsible for demonstrating that he/she has complied with the performance evaluation requirements of [§ 63.8\(e\)](#), that the COMS has been properly maintained, operated, and data quality-assured, as specified in [§ 63.8\(c\)](#) and [§ 63.8\(d\)](#), and that the resulting data have not been altered in any way.

(v) Except as provided in [paragraph \(h\)\(7\)\(ii\)](#) of this section, the results of continuous monitoring by a COMS that indicate that the opacity at the time visual observations were made was not in excess of the emission standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the affected source proves that, at the time of the alleged violation, the instrument used was properly maintained, as specified in [§ 63.8\(c\)](#), and met Performance Specification 1 in appendix B of [part 60 of this chapter](#), and that the resulting data have not been altered in any way.

(8) ***Finding of compliance.*** The Administrator will make a finding concerning an affected source's compliance with an opacity or visible emission standard upon obtaining all the compliance information required by the relevant standard (including the written reports of the results of the performance tests required by [§ 63.7](#), the results of Test Method 9 or another required opacity or visible emission test method, the observer certification required by [paragraph \(h\)\(6\)](#) of this section, and the continuous opacity monitoring system results, whichever is/are applicable) and any information available to the Administrator needed to determine whether proper operation and maintenance practices are being used.

(9) ***Adjustment to an opacity emission standard.***

(i) If the Administrator finds under [paragraph \(h\)\(8\)](#) of this section that an affected source is in compliance with all relevant standards for which

initial performance tests were conducted under [§ 63.7](#), but during the time such performance tests were conducted fails to meet any relevant opacity emission standard, the owner or operator of such source may petition the Administrator to make appropriate adjustment to the opacity emission standard for the affected source. Until the Administrator notifies the owner or operator of the appropriate adjustment, the relevant opacity emission standard remains applicable.

(ii) The Administrator may grant such a petition upon a demonstration by the owner or operator that—

(A) The affected source and its associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance tests;

(B) The performance tests were performed under the conditions established by the Administrator; and

(C) The affected source and its associated air pollution control equipment were incapable of being adjusted or operated to meet the relevant opacity emission standard.

(iii) The Administrator will establish an adjusted opacity emission standard for the affected source meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity emission standard at all times during which the source is meeting the mass or concentration emission standard. The Administrator will promulgate the new opacity emission standard in the Federal Register.

(iv) After the Administrator promulgates an adjusted opacity emission standard for an affected source, the owner or operator of such source shall be subject to the new opacity emission standard, and the new opacity emission standard shall apply to such source during any subsequent performance tests.

(i) ***Extension of compliance with emission standards.***

(1) Until an extension of compliance has been granted by the Administrator (or a State with an approved permit program) under this paragraph, the owner or operator of an affected source subject to the

requirements of this section shall comply with all applicable requirements of this part.

(2) *Extension of compliance for early reductions and other reductions* —

(i) ***Early reductions.*** Pursuant to section 112(i)(5) of the Act, if the owner or operator of an existing source demonstrates that the source has achieved a reduction in emissions of hazardous air pollutants in accordance with the provisions of [subpart D of this part](#), the Administrator (or the State with an approved permit program) will grant the owner or operator an extension of compliance with specific requirements of this part, as specified in subpart D.

(ii) ***Other reductions.*** Pursuant to section 112(i)(6) of the Act, if the owner or operator of an existing source has installed best available control technology (BACT) (as defined in section 169(3) of the Act) or technology required to meet a lowest achievable emission rate (LAER) (as defined in section 171 of the Act) prior to the promulgation of an emission standard in this part applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to the BACT or LAER installation, the Administrator will grant the owner or operator an extension of compliance with such emission standard that will apply until the date 5 years after the date on which such installation was achieved, as determined by the Administrator.

(3) *Request for extension of compliance.* [Paragraphs \(i\)\(4\)](#) through [\(i\)\(7\)](#) of this section concern requests for an extension of compliance with a relevant standard under this part (except requests for an extension of compliance under [paragraph \(i\)\(2\)\(i\)](#) of this section will be handled through procedures specified in [subpart D of this part](#)).

(4)

(i)

(A) The owner or operator of an existing source who is unable to comply with a relevant standard established under this part pursuant to section 112(d) of the Act may request that the Administrator (or a State, when the State has an approved part 70 permit program and the source is required to obtain a part 70 permit under that program, or a

State, when the State has been delegated the authority to implement and enforce the emission standard for that source) grant an extension allowing the source up to 1 additional year to comply with the standard, if such additional period is necessary for the installation of controls. An additional extension of up to 3 years may be added for mining waste operations, if the 1-year extension of compliance is insufficient to dry and cover mining waste in order to reduce emissions of any hazardous air pollutant. The owner or operator of an affected source who has requested an extension of compliance under this paragraph and who is otherwise required to obtain a title V permit shall apply for such permit or apply to have the source's title V permit revised to incorporate the conditions of the extension of compliance. The conditions of an extension of compliance granted under this paragraph will be incorporated into the affected source's title V permit according to the provisions of part 70 or Federal title V regulations in this chapter ([42 U.S.C. 7661](#)), whichever are applicable.

(B) Any request under this paragraph for an extension of compliance with a relevant standard must be submitted in writing to the appropriate authority no later than 120 days prior to the affected source's compliance date (as specified in [paragraphs \(b\)](#) and [\(c\)](#) of this section), except as provided for in [paragraph \(i\)\(4\)\(i\)\(C\)](#) of this section. Nonfrivolous requests submitted under this paragraph will stay the applicability of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the date of denial. Emission standards established under this part may specify alternative dates for the submittal of requests for an extension of compliance if alternatives are appropriate for the source categories affected by those standards.

(C) An owner or operator may submit a compliance extension request after the date specified in [paragraph \(i\)\(4\)\(i\)\(B\)](#) of this section provided the need for the compliance extension arose after that date, and before the otherwise applicable compliance date and the need arose due to circumstances beyond reasonable control of the owner or operator. This request must include, in addition to the information required in [paragraph \(i\)\(6\)\(i\)](#) of this section, a statement of the reasons additional time is needed and the date when the owner or operator first learned of the problems. Nonfrivolous requests submitted under this paragraph will stay the applicability of the rule as to the

emission points in question until such time as the request is granted or denied. A denial will be effective as of the original compliance date.

(ii) The owner or operator of an existing source unable to comply with a relevant standard established under this part pursuant to section 112(f) of the Act may request that the Administrator grant an extension allowing the source up to 2 years after the standard's effective date to comply with the standard. The Administrator may grant such an extension if he/she finds that such additional period is necessary for the installation of controls and that steps will be taken during the period of the extension to assure that the health of persons will be protected from imminent endangerment. Any request for an extension of compliance with a relevant standard under this paragraph must be submitted in writing to the Administrator not later than 90 calendar days after the effective date of the relevant standard.

(5) The owner or operator of an existing source that has installed BACT or technology required to meet LAER [as specified in [paragraph \(i\)\(2\)\(ii\)](#) of this section] prior to the promulgation of a relevant emission standard in this part may request that the Administrator grant an extension allowing the source 5 years from the date on which such installation was achieved, as determined by the Administrator, to comply with the standard. Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 120 days after the promulgation date of the standard. The Administrator may grant such an extension if he or she finds that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(6)

(i) The request for a compliance extension under [paragraph \(i\)\(4\)](#) of this section shall include the following information:

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

(B) A compliance schedule, including the date by which each step toward compliance will be reached. At a minimum, the list of dates shall include:

(1) The date by which on-site construction, installation of emission control equipment, or a process change is planned to be initiated; and

(2) The date by which final compliance is to be achieved.

(3) The date by which on-site construction, installation of emission control equipment, or a process change is to be completed; and

(4) The date by which final compliance is to be achieved;

(C)-(D)

(ii) The request for a compliance extension under [paragraph \(i\)\(5\)](#) of this section shall include all information needed to demonstrate to the Administrator's satisfaction that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(7) Advice on requesting an extension of compliance may be obtained from the Administrator (or the State with an approved permit program).

(8) **Approval of request for extension of compliance.** [Paragraphs \(i\)\(9\)](#) through [\(i\)\(14\)](#) of this section concern approval of an extension of compliance requested under [paragraphs \(i\)\(4\)](#) through [\(i\)\(6\)](#) of this section.

(9) Based on the information provided in any request made under [paragraphs \(i\)\(4\)](#) through [\(i\)\(6\)](#) of this section, or other information, the Administrator (or the State with an approved permit program) may grant an extension of compliance with an emission standard, as specified in [paragraphs \(i\)\(4\)](#) and [\(i\)\(5\)](#) of this section.

(10) The extension will be in writing and will—

(i) Identify each affected source covered by the extension;

(ii) Specify the termination date of the extension;

(iii) Specify the dates by which steps toward compliance are to be taken, if appropriate;

(iv) Specify other applicable requirements to which the compliance extension applies (e.g., performance tests); and

(v)

(A) Under paragraph (i)(4), specify any additional conditions that the Administrator (or the State) deems necessary to assure installation of the necessary controls and protection of the health of persons during the extension period; or

(B) Under paragraph (i)(5), specify any additional conditions that the Administrator deems necessary to assure the proper operation and maintenance of the installed controls during the extension period.

(11) The owner or operator of an existing source that has been granted an extension of compliance under [paragraph \(i\)\(10\)](#) of this section may be required to submit to the Administrator (or the State with an approved permit program) progress reports indicating whether the steps toward compliance outlined in the compliance schedule have been reached. The contents of the progress reports and the dates by which they shall be submitted will be specified in the written extension of compliance granted under [paragraph \(i\)\(10\)](#) of this section.

(12)

(i) The Administrator (or the State with an approved permit program) will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under [paragraph \(i\)\(4\)\(i\)](#) or [\(i\)\(5\)](#) of this section. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to

complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator (or the State with an approved permit program) will notify the owner or operator in writing of the Administrator's (or the State's) intention to issue the denial, together with—

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

(B) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator (or the State) before further action on the request.

(iv) The Administrator's final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(13)

(i) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under [paragraph \(i\)\(4\)\(ii\)](#) of this section. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 15 calendar days after receipt of the original application and within 15 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 15 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator will notify the owner or operator in writing of the Administrator's intention to issue the denial, together with—

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

(B) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator before further action on the request.

(iv) A final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(14) The Administrator (or the State with an approved permit program) may terminate an extension of compliance at an earlier date than specified if any specification under [paragraph \(i\)\(10\)\(iii\)](#) or [\(iv\)](#) of this section is not met. Upon a determination to terminate, the Administrator will notify, in writing, the owner or operator of the Administrator's determination to terminate, together with:

(i) Notice of the reason for termination; and

(ii) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the determination to terminate, additional information or arguments to the Administrator before further action on the termination.

(iii) A final determination to terminate an extension of compliance will be in writing and will set forth the specific grounds on which the termination is based. The final determination will be made within 30 calendar days after presentation of additional information or arguments, or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(15) [Reserved]

(16) The granting of an extension under this section shall not abrogate the Administrator's authority under section 114 of the Act.

(j) ***Exemption from compliance with emission standards.*** The President may exempt any stationary source from compliance with any relevant standard established pursuant to section 112 of the Act for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so. An exemption under this paragraph may be extended for 1 or more additional periods, each period not to exceed 2 years.

§ 63.9 Notification requirements.

(b) ***Initial notifications.***

(1)

(i) The requirements of this paragraph apply to the owner or operator of an affected source when such source becomes subject to a relevant standard.

(ii) If an area source subsequently becomes a major source that is subject to the emission standard or other requirement, such source shall be subject to the notification requirements of this section. Area sources previously subject to major source requirements that become major sources again are also subject to the notification requirements of this paragraph and must submit the notification according to the requirements of [paragraph \(k\)](#) of this section.

(iii) Affected sources that are required under this paragraph to submit an initial notification may use the application for approval of construction or

reconstruction under [§ 63.5\(d\) of this subpart](#), if relevant, to fulfill the initial notification requirements of this paragraph.

(2) The owner or operator of an affected source that has an initial startup before the effective date of a relevant standard under this part shall notify the Administrator in writing that the source is subject to the relevant standard. The notification, which shall be submitted not later than 120 calendar days after the effective date of the relevant standard (or within 120 calendar days after the source becomes subject to the relevant standard), shall provide the following information:

(i) The name and address of the owner or operator;

(ii) The address (i.e., physical location) of the affected source;

(iii) An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date;

(iv) A brief description of the nature, size, design, and method of operation of the source and an identification of the types of emission points within the affected source subject to the relevant standard and types of hazardous air pollutants emitted; and

(v) A statement of whether the affected source is a major source or an area source.

(3) [Reserved]

(4) The owner or operator of a new or reconstructed major affected source for which an application for approval of construction or reconstruction is required under [§ 63.5\(d\)](#) must provide the following information in writing to the Administrator:

(i) A notification of intention to construct a new major-emitting affected source, reconstruct a major-emitting affected source, or reconstruct a major source such that the source becomes a major-emitting affected source with the application for approval of construction or reconstruction as specified in [§ 63.5\(d\)\(1\)\(i\)](#); and

(ii)-(iv) [Reserved]

(v) A notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

(5) The owner or operator of a new or reconstructed affected source for which an application for approval of construction or reconstruction is not required under [§ 63.5\(d\)](#) must provide the following information in writing to the Administrator:

(i) A notification of intention to construct a new affected source, reconstruct an affected source, or reconstruct a source such that the source becomes an affected source, and

(ii) A notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

(iii) Unless the owner or operator has requested and received prior permission from the Administrator to submit less than the information in [§ 63.5\(d\)](#), the notification must include the information required on the application for approval of construction or reconstruction as specified in [§ 63.5\(d\)\(1\)\(i\)](#).

(h) ***Notification of compliance status.***

(1) The requirements of [paragraphs \(h\)\(2\)](#) through [\(h\)\(4\)](#) of this section apply when an affected source becomes subject to a relevant standard.

(2)

(i) Before a title V permit has been issued to the owner or operator of an affected source, and each time a notification of compliance status is required under this part, the owner or operator of such source shall submit to the Administrator a notification of compliance status, signed by the responsible official who shall certify its accuracy, attesting to whether the source has complied with the relevant standard. The notification shall list—

(A) The methods that were used to determine compliance;

(B) The results of any performance tests, opacity or visible emission observations, continuous monitoring system (CMS) performance evaluations, and/or other monitoring procedures or methods that were conducted;

(C) The methods that will be used for determining continuing compliance, including a description of monitoring and reporting requirements and test methods;

(D) The type and quantity of hazardous air pollutants emitted by the source (or surrogate pollutants if specified in the relevant standard), reported in units and averaging times and in accordance with the test methods specified in the relevant standard;

(E) If the relevant standard applies to both major and area sources, an analysis demonstrating whether the affected source is a major source (using the emissions data generated for this notification);

(F) A description of the air pollution control equipment (or method) for each emission point, including each control device (or method) for each hazardous air pollutant and the control efficiency (percent) for each control device (or method); and

(G) A statement by the owner or operator of the affected existing, new, or reconstructed source as to whether the source has complied with the relevant standard or other requirements.

(ii) The notification must be sent before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard (unless a different reporting period is specified in the standard, in which case the letter must be sent before the close of business on the day the report of the relevant testing or monitoring results is required to be delivered or postmarked). For example, the notification shall be sent before close of business on the 60th (or other required) day following completion of the initial performance test and again before the close of business on the 60th (or other required) day following the completion of any subsequent required performance test. If no performance test is required but opacity or visible emission observations are required to demonstrate compliance with an opacity or visible emission standard under this part, the notification of compliance status shall be sent before close of business on the 30th day following the completion of opacity or visible emission observations. Notifications may be combined as long as the due date requirement for each notification is met.

(3) After a title V permit has been issued to the owner or operator of an affected source, the owner or operator of such source shall comply with all requirements for compliance status reports contained in the source's title V permit, including reports required under this part. After a title V permit has been issued to the owner or operator of an affected source, and each time a notification of compliance status is required under this part, the owner or operator of such source shall submit the notification of compliance status to the appropriate permitting authority following completion of the relevant compliance demonstration activity specified in the relevant standard.

(4) [Reserved]

(5) If an owner or operator of an affected source submits estimates or preliminary information in the application for approval of construction or reconstruction required in [§ 63.5\(d\)](#) in place of the actual emissions data or control efficiencies required in [paragraphs \(d\)\(1\)\(ii\)\(H\)](#) and [\(d\)\(2\) of § 63.5](#), the owner or operator shall submit the actual emissions data and other correct information as soon as available but no later than with the initial notification of compliance status required in this section.

(6) Advice on a notification of compliance status may be obtained from the Administrator.

(j) ***Change in information already provided.*** Any change in the information already provided under this section shall be provided to the Administrator within 15 calendar days after the change. The owner or operator of a major source that reclassifies to area source status is also subject to the notification requirements of this paragraph. The owner or operator may submit the application for reclassification with the regulatory authority (e.g., permit application) according to [paragraph \(k\)](#) of this section to fulfill the requirements of this paragraph, but the information required in [paragraphs \(j\)\(1\)](#) through [\(4\)](#) of this section must be included. A source which reclassified after January 25, 2018, and before January 19, 2021, and has not yet provided the notification of a change in information is required to provide such notification no later than February 2, 2021, according to the requirements of [paragraph \(k\)](#) of this section. Beginning January 19, 2021, the owner or operator of a major source that reclassifies to area source status must submit the notification according to the requirements of [paragraph \(k\)](#) of this section. A notification of reclassification must contain the following information:

- (1) The name and address of the owner or operator;
- (2) The address (*i.e.*, physical location) of the affected source;
- (3) An identification of the standard being reclassified from and to (if applicable); and
- (4) Date of effectiveness of the reclassification.

(k) ***Electronic submission of notifications or reports.*** If you are required to submit notifications or reports following the procedure specified in this [paragraph \(k\)](#), you must submit notifications or reports to the EPA via the EPA's Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The notification or report must be submitted by the deadline specified. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report or notification, you must submit the information claimed to be CBI according to the procedures in [paragraph \(k\)\(3\)](#) of this section.

(1) If you are required to electronically submit a notification or report by this [paragraph \(k\)](#) through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the electronic submittal requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in [paragraphs \(k\)\(1\)\(i\) through \(vii\)](#) of this section.

(i) You must have been or will be precluded from accessing CEDRI and submitting a required notification or report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(ii) The outage must have occurred within the period of time beginning 5 business days prior to the date that the notification or report is due.

(iii) The outage may be planned or unplanned.

(iv) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence

should have known, that the event may cause or has caused a delay in reporting.

(v) You must provide to the Administrator a written description identifying:

(A) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(B) A rationale for attributing the delay in submitting beyond the regulatory deadline to EPA system outage;

(C) Measures taken or to be taken to minimize the delay in submitting; and

(D) The date by which you propose to submit, or if you have already met the electronic submittal requirement in this [paragraph \(k\)](#) at the time of the notification, the date you submitted the notification or report.

(vi) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(vii) In any circumstance, the notification or report must be submitted electronically as soon as possible after the outage is resolved.

(2) If you are required to electronically submit a notification or report by this [paragraph \(k\)](#) through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the electronic submittal requirement. To assert a claim of force majeure, you must meet the requirements outlined in [paragraphs \(k\)\(2\)\(i\)](#) through [\(v\)](#) of this section.

(i) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as 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 you from complying with the requirement to submit a notification or report

electronically within the time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage).

(ii) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in submitting through CEDRI.

(iii) You must provide to the Administrator:

(A) A written description of the force majeure event;

(B) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(C) Measures taken or to be taken to minimize the delay in reporting; and

(D) The date by which you propose to submit the notification or report, or if you have already met the electronic submittal requirement in this [paragraph \(k\)](#) at the time of the notification, the date you submitted the notification or report.

(iv) The decision to accept the claim of force majeure and allow an extension to the submittal deadline is solely within the discretion of the Administrator.

(v) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

(3) If you wish to assert a CBI claim for some of the information submitted under [paragraph \(k\)](#) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA following the procedures in [paragraphs \(k\)\(3\)\(i\)](#) through [\(iv\)](#) of this section. Where a subpart specifies a specific file format for the report or notification for which you are asserting a claim of CBI, the complete file that you submit under this [paragraph \(k\)\(3\)](#) must be in the same file format specified in the subpart.

(i) Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in [40 CFR part 2](#). All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data are not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(ii) You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described in [paragraph \(k\)](#) of this section.

(iii) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address oaqpscbi@epa.gov, and as described above, should include clear CBI markings. Electronic Reporting Tool (ERT) files should be flagged to the attention of the Group Leader, Measurement Policy Group; all other files should be flagged to the attention of the Sector Lead for the subpart for which you are submitting your notification or report. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link.

(iv) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: U.S. EPA, Attn: OAQPS Document Control Officer, Mail Drop: C404-02, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, NC 27711. ERT files should also be flagged to the attention of the Group Leader, Measurement Policy Group; all other files should also be flagged to the attention of the Sector Lead for the subpart for which you are submitting your notification or report. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

§ 63.2860 What notifications must I submit and when?

You must submit the one-time notifications listed in [paragraphs \(a\)](#) through [\(d\)](#) of this section to the responsible agency:

(a) ***Initial notification for existing sources.*** For an existing source, submit an initial notification to the agency responsible for these NESHAP no later than 120 days after the effective date of this subpart, or no later than 120 days after the source becomes subject to this subpart, whichever is later. In the notification, include the items in [paragraphs \(a\)\(1\)](#) through [\(5\)](#) of this section:

- (1) The name and address of the owner or operator.
- (2) The physical address of the vegetable oil production process.
- (3) Identification of the relevant standard, such as the vegetable oil production NESHAP, and compliance date.
- (4) A brief description of the source including the types of listed oilseeds processed, nominal operating capacity, and type of desolventizer(s) used.
- (5) A statement designating the source as a major source of HAP or a demonstration that the source meets the definition of an area source. An area source is a source that is not a major source and is not collocated within a plant site with other sources that are individually or collectively a major source.

(b) ***Initial notifications for new and reconstructed sources.*** New or reconstructed sources must submit a series of notifications before, during, and after source construction per the schedule listed in [§ 63.9](#). The information requirements for the notifications are the same as those listed in the General Provisions with the exceptions listed in [paragraphs \(b\)\(1\)](#) and [\(2\)](#) of this section:

- (1) The application for approval of construction does not require the specific HAP emission data required in [§ 63.5\(d\)\(1\)\(ii\)\(H\)](#) and [\(iii\)](#), [\(d\)\(2\)](#) and [\(d\)\(3\)\(ii\)](#). The application for approval of construction would include, instead, a brief description of the source including the types of listed oilseeds processed, nominal operating capacity, and type of desolventizer(s) used.
- (2) The notification of actual startup date must also include whether you have elected to operate under an initial startup period subject to [§](#)

[63.2850\(c\)\(2\)](#) and provide an estimate and justification for the anticipated duration of the initial startup period.

(c) **Significant modification notifications.** Any existing or new source that plans to undergo a significant modification as defined in [§ 63.2872](#) must submit two reports as described in [paragraphs \(c\)\(1\)](#) and [\(2\)](#) of this section:

(1) Initial notification. You must submit an initial notification to the agency responsible for these NESHAP 30 days prior to initial startup of the significantly modified source. The initial notification must demonstrate that the proposed changes qualify as a significant modification. The initial notification must include the items in [paragraphs \(c\)\(1\)\(i\)](#) and [\(ii\)](#) of this section:

(i) The expected startup date of the modified source.

(ii) A description of the significant modification including a list of the equipment that will be replaced or modified. If the significant modification involves changes other than adding or replacing extractors, desolventizer-toasters (conventional and specialty), and meal dryer-coolers, then you must also include the fixed capital cost of the new components, expressed as a percentage of the fixed capital cost to build a comparable new vegetable oil production process; supporting documentation for the cost estimate; and documentation that the proposed changes will significantly affect solvent losses.

(2) Notification of actual startup. You must submit a notification of actual startup date within 15 days after initial startup of the modified source. The notification must include the items in [paragraphs \(c\)\(2\)\(i\)](#) through [\(iv\)](#) of this section:

(i) The initial startup date of the modified source.

(ii) An indication whether you have elected to operate under an initial startup period subject to [§ 63.2850\(d\)\(2\)](#).

(iii) The anticipated duration of any initial startup period.

(iv) A justification for the anticipated duration of any initial startup period.

(d) **Notification of compliance status.** As an existing, new, or reconstructed source, you must submit a notification of compliance status report to the responsible agency no later than 60 days after determining your initial 12 operating months compliance ratio. If you are an existing source, you generally must submit this notification no later than 50 calendar months after the effective date of these NESHAP (36 calendar months for compliance, 12 operating months to record data, and 2 calendar months to complete the report). If you are a new or reconstructed source, the notification of compliance status is generally due no later than 20 calendar months after initial startup (6 calendar months for the initial startup period, 12 operating months to record data, and 2 calendar months to complete the report). The notification of compliance status must contain the items in [paragraphs \(d\)\(1\)](#) through [\(6\)](#) of this section:

(1) The name and address of the owner or operator.

(2) The physical address of the vegetable oil production process.

(3) Each listed oilseed type processed during the previous 12 operating months.

(4) Each HAP identified under [§ 63.2854\(a\)](#) as being present in concentrations greater than 1 percent by volume in each delivery of solvent received during the 12 operating months period used for the initial compliance determination.

(5) A statement designating the source as a major source of HAP or a demonstration that the source qualifies as an area source. An area source is a source that is not a major source and is not collocated within a plant site with other sources that are individually or collectively a major source.

(6) A compliance certification indicating whether the source complied with all of the requirements of this subpart throughout the 12 operating months used for the initial source compliance determination. This certification must include a certification of the items in [paragraphs \(d\)\(6\)\(i\)](#) through [\(iii\)](#) of this section:

(i) The plan for demonstrating compliance (as described in [§ 63.2851](#)) and SSM plan (as described in [§ 63.2852](#)) are complete and available on-site for inspection.

(ii) You are following the procedures described in the plan for demonstrating compliance.

(iii) The compliance ratio is less than or equal to 1.00.

§ 63.2861 What reports must I submit and when?

After the initial notifications, you must submit the reports in [paragraphs \(a\)](#) through [\(d\)](#) of this section to the agency responsible for these NESHAP at the appropriate time intervals:

(a) **Annual compliance certifications.** The first annual compliance certification is due 12 calendar months after you submit the notification of compliance status. Each subsequent annual compliance certification is due 12 calendar months after the previous annual compliance certification. The annual compliance certification provides the compliance status for each operating month during the 12 calendar months period ending 60 days prior to the date on which the report is due. Include the information in [paragraphs \(a\)\(1\)](#) through [\(6\)](#) of this section in the annual certification:

(1) The name and address of the owner or operator.

(2) The physical address of the vegetable oil production process.

(3) Each listed oilseed type processed during the 12 calendar months period covered by the report.

(4) Each HAP identified under [§ 63.2854\(a\)](#) as being present in concentrations greater than 1 percent by volume in each delivery of solvent received during the 12 calendar months period covered by the report.

(5) A statement designating the source as a major source of HAP or a demonstration that the source qualifies as an area source. An area source is a source that is not a major source and is not collocated within a plant site with other sources that are individually or collectively a major source.

(6) A compliance certification to indicate whether the source was in compliance for each compliance determination made during the 12 calendar months period covered by the report. For each such compliance determination, you must include a certification of the items in [paragraphs \(a\)\(6\)\(i\)](#) through [\(ii\)](#) of this section:

(i) You are following the procedures described in the plan for demonstrating compliance.

(ii) The compliance ratio is less than or equal to 1.00.

(b) **Deviation notification report.** Submit a deviation report for each compliance determination you make in which the compliance ratio exceeds 1.00 as determined under [§ 63.2840\(c\)](#) or if you deviate from the work practice standard for an initial startup period subject to [§ 63.2850\(c\)\(2\)](#) or [\(d\)\(2\)](#). Submit the deviation report by the end of the month following the calendar month in which you determined the deviation. The deviation notification report must include the items in [paragraphs \(b\)\(1\)](#) through [\(7\)](#) of this section if you exceed the compliance ratio, and must include the items in [paragraphs \(b\)\(1\)](#), [\(2\)](#), and [\(5\)](#) through [\(8\)](#) of this section if you deviate from the work practice standard:

(1) The name and address of the owner or operator.

(2) The physical address of the vegetable oil production process.

(3) Each listed oilseed type processed during the 12 operating months period for which you determined the deviation.

(4) The compliance ratio comprising the deviation. You may reduce the frequency of submittal of the deviation notification report if the agency responsible for these NESHAP does not object as provided in [§ 63.10\(e\)\(3\)\(iii\)](#).

(5) Beginning on September 15, 2020, the number of deviations and for each deviation the date and duration of each deviation. Flag and provide an explanation for any deviation from the compliance ratio for which a deviation report is being submitted for more than one consecutive month (*i.e.*, include a reference to the original date and reporting of the deviation). If the explanation provides that corrective actions have returned the affected unit(s) to its normal operation, you are not required to include the items in [paragraphs \(b\)\(6\)](#) and [\(7\)](#) of this section.

(6) Beginning on September 15, 2020, a statement of the cause of each deviation (including unknown cause, if applicable).

(7) Beginning on September 15, 2020, for each deviation, a list of the affected sources or equipment, an estimate of the quantity of HAP

emitted over the emission requirements of [§ 63.2840](#), and a description of the method used to estimate the emissions.

(8) A description of the deviation from the work practice standard during the initial startup period, including the records of [§ 63.2862\(f\)](#) for the deviation.

(e) **Initial startup period reports.** If you choose to operate your source under an initial startup period subject to [§ 63.2850\(c\)\(2\)](#) or [\(d\)\(2\)](#) on and after September 15, 2020, you must submit an initial startup period report within 30 days after the initial startup period ends. The report must include the items in [paragraphs \(e\)\(1\)](#) through [\(3\)](#) of this section.

(1) The name and address of the owner or operator.

(2) The physical address of the vegetable oil production process.

(3) A compliance certification indicating whether the source was in compliance with the work practice standard of [§ 63.2840\(h\)](#).

(f) **Performance tests.** On and after September 15, 2020, if you conduct performance tests to determine solvent flow rate to a control device or destruction efficiency of a control device according to the requirements of [§ 63.2853\(a\)\(5\)\(i\)](#), within 60 days after the date of completing each performance test, you must submit the results of the performance test following the procedures specified in [paragraphs \(f\)\(1\)](#) and [\(2\)](#) of this section.

(1) **Data collected using test methods supported by EPA's Electronic Reporting Tool (ERT) as listed on EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test.** Submit the results of the performance test to EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on EPA's ERT website.

(2) **Data collected using test methods that are not supported by EPA's ERT as listed on EPA's ERT website at the time of the test.** The results of the performance test must be included as an attachment in

the ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the ERT generated package or alternative file to EPA via CEDRI.

(3) **Confidential business information (CBI).** If you claim some of the information submitted under [paragraph \(f\)](#) or [\(g\)](#) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described in [paragraph \(f\)\(1\)](#) of this section.

(g) **Submitting reports electronically.** On and after September 15, 2020, you must submit the initial notification required in [§ 63.2860\(b\)](#) and the annual compliance certification, deviation report, and initial startup report required in [§ 63.2861\(a\)](#), [\(b\)](#), and [\(e\)](#) to the EPA via CEDRI, which can be accessed through the EPA's CDX (<https://cdx.epa.gov>). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. You must use the appropriate electronic report template on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri>) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same

file with the CBI omitted must be submitted to EPA via EPA's CDX as described earlier in this paragraph.

§ 63.2862 What records must I keep?

(b) Before September 15, 2020, prepare a plan for demonstrating compliance (as described in [§ 63.2851](#)) and a SSM plan (as described in [§ 63.2852](#)). In these two plans, describe the procedures you will follow in obtaining and recording data, and determining compliance under normal operations or a SSM subject to the [§ 63.2850\(c\)\(2\)](#) or [\(d\)\(2\)](#) initial startup period or the [§ 63.2850\(e\)\(2\)](#) malfunction period. Complete both plans before the compliance date for your source and keep them on-site and readily available as long as the source is operational. On and after September 15, 2020, the requirement to prepare a SSM plan no longer applies, and the plan for demonstrating compliance must only describe the procedures you develop according to the requirements of [§ 63.2851](#).

(c) If your source processes any listed oilseed, record the items in [paragraphs \(c\)\(1\)](#) through [\(3\)](#) of this section:

(1) For the solvent inventory, record the information in [paragraphs \(c\)\(1\)\(i\)](#) through [\(vii\)](#) of this section in accordance with your plan for demonstrating compliance:

(i) Dates that define each operating status period during a calendar month.

(ii) The operating status of your source such as normal operation, nonoperating, initial startup period, malfunction period, or exempt operation for each recorded time interval.

(iii) Record the gallons of extraction solvent in the inventory on the beginning and ending dates of each normal operating period.

(iv) The gallons of all extraction solvent received, purchased, and recovered during each calendar month.

(v) All extraction solvent inventory adjustments, additions or subtractions. You must document the reason for the adjustment and justify the quantity of the adjustment.

(vi) The total solvent loss for each calendar month, regardless of the source operating status.

(vii) The actual solvent loss in gallons for each operating month.

(2) For the weighted average volume fraction of HAP in the extraction solvent, you must record the items in [paragraphs \(c\)\(2\)\(i\)](#) through [\(iii\)](#) of this section:

(i) The gallons of extraction solvent received in each delivery.

(ii) The volume fraction of each HAP exceeding 1 percent by volume in each delivery of extraction solvent.

(iii) The weighted average volume fraction of HAP in extraction solvent received since the end of the last operating month as determined in accordance with [§ 63.2854\(b\)\(2\)](#).

(3) For each type of listed oilseed processed, record the items in [paragraphs \(c\)\(3\)\(i\)](#) through [\(vi\)](#) of this section, in accordance with your plan for demonstrating compliance:

(i) The dates that define each operating status period. These dates must be the same as the dates entered for the extraction solvent inventory.

(ii) The operating status of your source, as described in [§ 63.2853\(a\)\(2\)](#). On the log for each type of listed oilseed that is not being processed during a normal operating period, you must record which type of listed oilseed is being processed in addition to the source operating status.

(iii) The oilseed inventory for the type of listed oilseed being processed on the beginning and ending dates of each normal operating period.

(iv) The tons of each type of listed oilseed received at the affected source each normal operating period.

(v) All listed oilseed inventory adjustments, additions or subtractions for normal operating periods. You must document the reason for the adjustment and justify the quantity of the adjustment.

(vi) The tons of each type of listed oilseed processed during each operating month.

(d) After your source has processed listed oilseed for 12 operating months, record the items in [paragraphs \(d\)\(1\)](#) through [\(5\)](#) of this section by the end of the calendar month following each operating month:

(1) The 12 operating months rolling sum of the actual solvent loss in gallons as described in [§ 63.2853\(c\)](#).

(2) The weighted average volume fraction of HAP in extraction solvent received for the previous 12 operating months as described in [§ 63.2854\(b\)\(3\)](#).

(3) The 12 operating months rolling sum of each type of listed oilseed processed at the affected source in tons as described in [§ 63.2855\(c\)](#).

(4) A determination of the compliance ratio. Using the values from [§§ 63.2853](#), [63.2854](#), [63.2855](#), and Table 1 of [§ 63.2840](#), calculate the compliance ratio using Equation 2 of [§ 63.2840](#).

(5) A statement of whether the source is in compliance with all of the requirements of this subpart. This includes a determination of whether you have met all of the applicable requirements in [§ 63.2850](#).

(e) Before September 15, 2020, for each SSM event subject to an initial startup period as described in [§ 63.2850\(c\)\(2\)](#) or [\(d\)\(2\)](#), or a malfunction period as described in [§ 63.2850\(e\)\(2\)](#), record the items in [paragraphs \(e\)\(1\)](#) through [\(3\)](#) of this section by the end of the calendar month following each month in which the initial startup period or malfunction period occurred. The provisions of this [paragraph \(e\)](#) do not apply on and after September 15, 2020.

(1) A description and date of the SSM event, its duration, and reason it qualifies as an initial startup or malfunction.

(2) An estimate of the solvent loss in gallons for the duration of the initial startup or malfunction period with supporting documentation.

(3) A checklist or other mechanism to indicate whether the SSM plan was followed during the initial startup or malfunction period.

(f) On and after September 15, 2020, for each initial startup period subject to [§ 63.2850\(c\)\(2\)](#) or [\(d\)\(2\)](#), record the items in [paragraphs \(f\)\(1\)](#) through

[\(6\)](#) of this section by the end of the calendar month following each month in which the initial startup period occurred.

(1) A description and dates of the initial startup period, and reason it qualifies as an initial startup.

(2) An estimate of the solvent loss in gallons for the duration of the initial startup or malfunction period with supporting documentation.

(3) Nominal design rate of the extractor and operating rate of the extractor for the duration of the initial startup period, or permitted production rate and actual production rate of your source for the duration of the initial startup period.

(4) Measured values for temperature and pressure for the desolventizing and oil distillation units associated with solvent recovery.

(5) Information to indicate the mineral oil absorption system was operating at all times during the initial startup period.

(6) Information to indicate the solvent condensers were operating at all times during the initial startup period.

(g) On and after September 15, 2020, keep the records of deviations specified in [paragraphs \(f\)\(1\)](#) through [\(4\)](#) of this section for each compliance determination you make in which the compliance ratio exceeds 1.00 as determined under [§ 63.2840\(c\)](#) or if you deviate from the work practice standard for an initial startup period subject to [§ 63.2850\(c\)\(2\)](#) or [\(d\)\(2\)](#).

(1) The number of deviations, and the date and duration of each deviation. For deviations from the compliance ratio, the date of the deviation is the date the compliance ratio determination is made. The duration of the deviation from the compliance ratio is the length of time taken to address the cause of the deviation, including the duration of any malfunction, and return the affected unit(s) to its normal or usual manner of operation. For deviations from the work practice standard during the initial startup period, the date of the deviation is the date(s) when the facility fails to comply with any of the work practice standard in [§ 63.2840\(h\)](#). The duration of the deviation from the work practice standard is the length of time taken to return to the work practice standards.

(2) A statement of the cause of each deviation (including unknown cause, if applicable).

(3) For each deviation, a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(4) Actions taken to minimize emissions in accordance with [§ 63.2840\(g\)](#), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(5) If you deviate from the work practice standard for an initial startup period, a description of the deviation from the work practice standard.

(h) Any records required to be maintained by this part that are submitted electronically via EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or EPA as part of an on-site compliance evaluation.