

TABLE 6 TO SUBPART OOO OF PART 63—COEFFICIENTS FOR TOTAL RESOURCE EFFECTIVENESS^A

Control device basis	Values of coefficients		
	A	B	C
Flare	5.276×10^{-1}	9.98×10^{-2}	2.096×10^{-3}
Thermal Incinerator 0 Percent Recovery	4.068×10^{-1}	1.71×10^{-2}	8.664×10^{-3}
Thermal Incinerator 70 Percent Recovery	6.868×10^{-1}	3.21×10^{-3}	3.546×10^{-3}

^AUse according to procedures outlined in this section.
 MJ/scm=MegaJoules per standard cubic meter.
 scm/min=Standard cubic meters per minute.

Subpart PPP—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production

SOURCE: 64 FR 29439, June 1, 1999, unless otherwise noted.

§ 63.1420 Applicability and designation of affected sources.

(a) *Definition of affected source.* The provisions of this subpart apply to each affected source. Affected sources are described in paragraphs (a)(1) through (4) of this section.

(1) An affected source is either an existing affected source or a new affected source. Existing affected source is defined in paragraph (a)(2) of this section, and new affected source is defined in paragraph (a)(3) of this section.

(2) An existing affected source is defined as the group of one or more polyether polyol manufacturing process units (PMPUs) and associated equipment, as listed in paragraph (a)(4) of this section, that is not part of a new affected source, as defined in paragraph (a)(3) of this section, and that is located at a plant site that is a major source.

(3) A new affected source is defined as a source that meets the criteria of paragraph (a)(3)(i), (ii), or (iii) of this section. The situation described in paragraph (a)(3)(i) of this section is distinct from those situations described in paragraphs (a)(3)(ii) and (iii) of this section.

(i) At a site without organic HAP emission points before September 4, 1997 (i.e., a “greenfield” site), the group of one or more PMPUs and associated equipment, as listed in paragraph (a)(4) of this section, that is part of a major source, and on which construction for

the PMPU(s) commenced after September 4, 1997;

(ii) The group of one or more PMPUs meeting the criteria in paragraph (g)(1)(i) of this section; or

(iii) A reconstructed affected source meeting the criteria in paragraph (g)(2)(i) of this section.

(4) The affected source also includes the emission points and equipment specified in paragraphs (a)(4)(i) through (vi) of this section that are associated with a PMPU (or a group of PMPUs) making up an affected source, as defined in §63.1423.

(i) Each waste management unit.

(ii) Maintenance wastewater.

(iii) Each heat exchange system.

(iv) Equipment required by or utilized as a method of compliance with this subpart which may include control techniques and recovery devices.

(v) Product finishing operation.

(vi) Each feed or catalyst operation.

(b) *PMPUs without organic HAP.* The owner or operator of a PMPU that is part of an affected source, as defined in paragraph (a) of this section, but that does not use or manufacture any organic HAP during the production of one or more products is only subject to the provisions of this subpart as specified in paragraph (b)(1) or (2) of this section, as applicable. Products or raw material(s) containing organic HAP as impurities only are not considered organic HAP for the purposes of this paragraph.

(1) If an organic HAP is not used or manufactured in the production of polyether polyols, the PMPU is not subject to any provisions of this subpart, except that the owner or operator shall comply with either paragraph (b)(1)(i) or (ii) of this section. The owner or operator is not required to comply with the provisions of 40 CFR

part 63, subpart A (the General Provisions) for that PMPU.

(i) Retain information, data, and analyses used to document the basis for the determination that the PMPU does not use or manufacture any organic HAP. Types of information that could document this determination include, but are not limited to, records of chemicals purchased for the process, analyses of process stream composition, engineering calculations, or process knowledge.

(ii) When requested by the Administrator, demonstrate that the PMPU does not use or manufacture any organic HAP.

(2) If an organic HAP is used or manufactured in the production of polyether polyols, but an organic HAP is not used in the production of one or more products that are not polyether polyols, the PMPU is not subject to any provision of this subpart other than paragraph (b)(1)(i) or (ii) of this section during the production of the non-polyether polyol products that do not use or manufacture any organic HAP.

(c) *Emission points included in the affected source but not subject to the provisions of this subpart.* The affected source includes the emission points listed in paragraphs (c)(1) through (12) of this section, but these emission points are not subject to the requirements of this subpart or the provisions of 40 CFR part 63, subpart A.

(1) Equipment that does not contain organic HAP or that contains organic HAP as impurities only and is located at a PMPU that is part of an affected source.

(2) Stormwater managed in segregated sewers.

(3) Water from fire-fighting and deluge systems in segregated sewers.

(4) Spills.

(5) Water from safety showers.

(6) Water from testing of deluge systems.

(7) Water from testing of firefighting systems.

(8) Vessels that store and/or handle material that contains no organic HAP or organic HAP as impurities only.

(9) Equipment that operates in organic HAP service for less than 300 hours during the calendar year.

(10) Loading racks, loading arms, or loading hoses that only transfer liquids containing HAP as impurities.

(11) Loading racks, loading arms, or loading hoses that vapor balance during all loading operations.

(12) Utility fluids, such as heat transfer fluids.

(d) *Processes exempted from the affected source.* The processes specified in paragraphs (d)(1) through (3) of this section are not part of the affected source and are exempted from the requirements of both this subpart and subpart A of this part.

(1) Research and development facilities.

(2) Solvent reclamation, recovery, or recycling operations at hazardous waste treatment, storage, and disposal facilities (TSDF) requiring a permit under 40 CFR part 270 that are not part of a PMPU to which this subpart applies.

(3) Reactions or processing that occur after the epoxide polymerization is complete and after all catalyst removal steps, if any, are complete.

(e) *Primary product determination and applicability.* An owner or operator of a process unit that produces or plans to produce a polyether polyol shall determine if the process unit is subject to this subpart in accordance with this paragraph.

(1) *Initial primary product determination.* The owner or operator shall initially determine the primary product of each process unit in accordance with paragraphs (e)(1)(i) through (iii) of this section.

(i) If a process unit manufactures only one product, then that product shall represent the primary product of the process unit.

(ii) If a process unit produces more than one intended product at the same time, the primary product shall be determined in accordance with paragraph (e)(1)(ii)(A) or (B) of this section.

(A) The product for which the process unit has the greatest annual design capacity on a mass basis shall represent the primary product of the process unit, or

(B) If a process unit has the same maximum annual design capacity on a mass basis for two or more products and if one of those products is a

polyether polyol, then the polyether polyol shall represent the primary product of the process unit.

(iii) If a process unit is designed and operated as a flexible operation unit, the primary product shall be determined as specified in paragraph (e)(1)(iii)(A) or (B) of this section based on the anticipated operations for the 5 years following September 4, 1997 for existing process units, or for the first year after the process unit begins production of any product for the new process units. If operations cannot be anticipated sufficiently to allow the determination of the primary product for the specified period, applicability shall be determined in accordance with paragraph (e)(2) of this section.

(A) If the flexible operation unit will manufacture one product for the greatest operating time over the specified 5-year period for existing process units, or the specified 1-year period for new process units, then that product shall represent the primary product of the flexible operation unit.

(B) If the flexible operation unit will manufacture multiple products equally based on operating time, then the product with the greatest expected production on a mass basis over the specified 5-year period for existing process units, or the specified 1-year period for new process units shall represent the primary product of the flexible operation unit.

(iv) If, according to paragraph (e)(1)(i), (ii), or (iii) of this section, the primary product of a process unit is a polyether polyol, then that process unit shall be designated as a PMPU. If the plant site is a major source, that PMPU and associated equipment, as listed in paragraph (a)(4) of this section, is either an affected source or part of an affected source comprised of one or more other PMPUs and associated equipment, as listed in paragraph (a)(4) of this section, and subject to this subpart. If the primary product of a process unit is not a polyether polyol, then that process unit is not a PMPU.

(2) *Provisions if primary product cannot be determined.* If the primary product cannot be determined for a flexible operation unit in accordance with paragraph (e)(1)(iii) of this section, applica-

bility shall be determined in accordance with this paragraph.

(i) If the owner or operator can determine that a polyether polyol is not the primary product, then that flexible operation unit is not a PMPU.

(ii) If the owner or operator cannot determine that a polyether polyol is not the primary product as specified in paragraph (e)(2)(i) of this section, applicability shall be determined in accordance with paragraph (e)(2)(ii)(A) or (B) of this section.

(A) If the flexible operation unit is an existing process unit, the flexible operation unit shall be designated as a PMPU if a polyether polyol was produced for 5 percent or greater of the total operating time of the flexible operation unit since September 4, 1997.

(B) If the flexible operation unit is a new process unit, the flexible operation unit shall be designated as a PMPU if the owner or operator anticipates that a polyether polyol will be manufactured in the flexible operation unit at any time in the first year after the date the unit begins production of any product.

(3) *Annual applicability determination for non-PMPUs that have produced a polyether polyol.* Once per year beginning June 1, 2004, the owner or operator of each flexible operation unit that is not designated as a PMPU, but that has produced a polyether polyol at any time in the preceding 5-year period or since the date that the unit began production of any product, whichever is shorter, shall perform the evaluation described in paragraphs (e)(3)(i) through (iii) of this section. However, an owner or operator that does not intend to produce any elastomer product in the future, in accordance with paragraph (e)(9) of this section, is not required to perform the evaluation described in paragraphs (e)(3)(i) through (iii) of this section.

(i) For each product produced in the flexible operation unit, the owner or operator shall calculate the percentage of total operating time over which the product was produced during the preceding 5-year period.

(ii) The owner or operator shall identify the primary product as the product with the highest percentage of total

operating time for the preceding 5-year period.

(iii) If the primary product identified in paragraph (e)(3)(ii) is a polyether polyol, the flexible operation unit shall be designated as a PMPU. The owner or operator shall notify the Administrator no later than 45 days after determining that the flexible operation unit is a PMPU, and shall comply with the requirements of this subpart in accordance with paragraph (g)(1) of this section for the flexible operation unit.

(4) *Applicability determination for non-PMPUs that have not produced a polyether polyol.* The owner or operator that anticipates the production of a polyether polyol in a process unit that is not designated as a PMPU, and in which no polyether polyol products have been produced in the previous 5-year period or since the date that the process unit began production of any product, whichever is shorter, shall use the procedures in paragraph (e)(1) or (2) of this section to determine if the process unit is designated as a PMPU, with the exception that for existing process units, owners or operators shall project production for the 5 years following the date that the owner or operator anticipates initiating the production of a polyether polyol, instead of the 5 years following September 4, 1997. If the unit is designated as a PMPU, the owner or operator shall comply in accordance with paragraph (g)(1) of this section.

(5) *Applicability of requirements for PMPUs that are flexible operation units.* The owner or operator of PMPUs that are flexible operation units shall comply with the provisions of this subpart in accordance with paragraphs (e)(5)(i) through (iii) of this section.

(i) *Control requirements.* The owner or operator shall comply with the control requirements of this subpart in accordance with paragraphs (e)(5)(i)(A) and (B) of this section.

(A) During periods when the PMPU produces polyether polyols, the owner or operator shall comply with the provisions of this subpart.

(B) During periods when the PMPU produces products other than polyether polyols, the owner or operator is not required to install additional combustion, recovery, or recapture devices (to otherwise demonstrate compliance).

However, the owner or operator shall continue to operate any existing combustion, recovery, or recapture devices that are required for compliance during the production of polyether polyols, with the exceptions provided in paragraph (e)(5)(iv) of this section. If extended cookout (ECO) is the control technique chosen for epoxide emission reduction, then ECO or a control technique providing an equivalent reduction in epoxide emissions should continue to be used for epoxide emission reduction, if the non-polyether polyol being produced uses epoxide monomers.

(ii) *Monitoring requirements.* The owner or operator shall comply with the monitoring requirements of this subpart in accordance with paragraphs (e)(5)(ii)(A) and (B) of this section, and paragraph (e)(5)(ii)(C) of this section if applicable.

(A) The owner or operator shall establish a single parameter monitoring level (for each parameter required to be monitored at each device subject to monitoring requirements) in accordance with § 63.1438(a) based on emission point and control technique characteristics when polyether polyol is being produced.

(B) The owner or operator shall monitor each parameter at each device subject to monitoring requirements at all times (during periods when the PMPU produces polyether polyols, and during periods when the PMPU produces products other than polyether polyols), with the exceptions provided in paragraph (e)(5)(iv) of this section.

(C) If ECO is used to reduce epoxide emissions, a parameter monitoring level shall be established for the production of non-polyether polyol products as the average of the established parameter levels for all product classes produced. During periods when products other than polyether polyols are produced, the ECO shall be performed so that the parameter monitoring level established for the production of non-polyether polyol products is maintained when the ECO is used as a control technique.

(iii) *Group determinations.* For emission points where the owner or operator is required to determine if the emission point is Group 1 according to the definitions in § 63.1423 (storage vessels,

process vents for nonepoxy organic HAP emissions used to make or modify the product, and wastewater), the owner or operator shall determine the group status based on emission point characteristics when polyether polyol is being manufactured. Group 1 emission points shall be controlled in accordance with paragraph (e)(5)(i) of this section.

(iv) *Exceptions.* During periods when products described in paragraphs (e)(5)(iv)(A) and (B) of this section are produced, the owner or operator is not required to comply with the provisions of this subpart.

(A) Products in which no organic HAP is used or manufactured, provided that the owner or operator comply with paragraph (b)(2) of this section.

(B) Products that make the PMPU subject to 40 CFR part 63, subpart GGG (Pharmaceuticals Production NESHAP).

(6)-(7) [Reserved]

(8) *Requirements for process units that are not PMPUs.* If it is determined that a process unit is not subject to this subpart, the owner or operator shall either retain all information, data, and analysis used to document the basis for the determination that the process unit is not a PMPU, or, when requested by the Administrator, demonstrate that the process unit is not a PMPU.

(9) *PMPUs terminating production of all polyether polyols.* If a PMPU terminates the production of all polyether polyols, and the owner or operator does not anticipate the production of any polyether polyols in the future in that PMPU, the process unit is no longer a PMPU and is not subject to this subpart after notification is made to the Administrator. This notification shall be accompanied by a rationale for why it is anticipated that no polyether polyols will be produced in the process unit in the future.

(10) *Redetermination of applicability to PMPUs that are flexible operation units.* Whenever changes in production occur that could reasonably be expected to change the primary product of a PMPU that is operating as a flexible operation unit from a polyether polyol to a product that would make the process unit subject to another subpart of this part, the owner or operator shall reevaluate

the primary product, in accordance with paragraphs (e)(3)(i) and (ii) of this section. If the conditions in paragraphs (e)(10)(i) through (iii) of this section are met, the flexible operation unit shall no longer be designated as a PMPU after the compliance date of the other subpart, and shall no longer be subject to the provisions of this subpart after the date that the process unit is required to be in compliance with the provisions of the other subpart. If the conditions in paragraphs (e)(10)(i) through (iii) of this section are not met, the flexible operation unit shall continue to be considered a PMPU and subject to the requirements of this subpart.

(i) The product identified as the primary product is not polyether polyol;

(ii) The production of the product identified as the primary product is subject to another subpart of this part; and

(iii) The owner or operator submits a notification to the Administrator of the pending change in applicability.

(f) *Storage vessel ownership determination.* The owner or operator shall follow the procedures specified in paragraphs (f)(1) through (7) of this section to determine to which process unit a storage vessel shall be assigned.

(1) If a storage vessel is already subject to another subpart of 40 CFR part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) on June 1, 1999, that storage vessel shall be assigned to the process unit subject to the other subpart, and none of the other provisions in this subpart shall apply to that storage vessel.

(2) If a storage vessel is dedicated to a single process unit, the storage vessel shall be assigned to that process unit.

(3) If a storage vessel is shared among process units, then the storage vessel shall be assigned to that process unit located on the same plant site as the storage vessel that has the greatest input into or output from the storage vessel (i.e., the process unit that has the predominant use of the storage vessel.)

(4) If predominant use cannot be determined for a storage vessel that is shared among process units and if only one of those process units is a PMPU

subject to this subpart, the storage vessel shall be assigned to that PMPU.

(5) If predominant use cannot be determined for a storage vessel that is shared among process units and if more than one of the process units are PMPUs that have different primary products and that are subject to this subpart, then the owner or operator shall assign the storage vessel to any one of the PMPUs sharing the storage vessel.

(6) If the predominant use of a storage vessel varies from year to year, then predominant use shall be determined based on the utilization that occurred during the year preceding June 1, 1999 or based on the expected utilization for the 5 years following June 1, 1999 for existing affected sources, whichever is more representative of the expected operations for that storage vessel, and based on the expected utilization for the 5 years after initial start-up for new affected sources. The determination of predominant use shall be reported in the Notification of Compliance Status, as required by § 63.1439(e)(5)(v).

(7) Where a storage vessel is located at a major source that includes one or more process units which place material into or receive material from the storage vessel, but the storage vessel is located in a tank farm (including a marine tank farm), the applicability of this subpart shall be determined according to the provisions in paragraphs (f)(7)(i) through (iv) of this section.

(i) The storage vessel may only be assigned to a process unit that utilizes the storage vessel and does not have an intervening storage vessel for that product (or raw materials, as appropriate). With respect to any process unit, an intervening storage vessel means a storage vessel connected by hard-piping to both the process unit and the storage vessel in the tank farm so that product or raw material entering or leaving the process unit flows into (or from) the intervening storage vessel and does not flow directly into (or from) the storage vessel in the tank farm.

(ii) If there is no process unit at the major source that meets the criteria of paragraph (f)(7)(i) of this section with

respect to a storage vessel, this subpart does not apply to the storage vessel.

(iii) If there is only one process unit at the major source that meets the criteria of paragraph (f)(7)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to that process unit.

(iv) If there are two or more process units at the major source that meet the criteria of paragraph (f)(7)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to one of those process units according to the provisions of paragraphs (f)(3) through (6) of this section. The predominant use shall be determined among only those process units that meet the criteria of paragraph (f)(7)(i) of this section.

(8) If the storage vessel begins receiving material from (or sending material to) a process unit that was not included in the initial determination, or ceases to receive material from (or send material to) a process unit that was included in the initial determination, the owner or operator shall re-evaluate the applicability of this subpart to that storage vessel.

(g) *Changes or additions to plant sites.* The provisions of this paragraph apply to the owner or operator that changes or adds to their plant site or affected source.

(1) *Adding a PMPU to a plant site.* The provisions of paragraphs (g)(1)(i) and (ii) of this section apply to the owner or operator that adds one or more PMPUs to a plant site. A PMPU may be added to a plant site by constructing or reconstructing a process unit to produce polyether polyols. A PMPU may also be added to a plant site due to changes in production (anticipated production or actual past production) such that a polyether polyol becomes the primary product of a process unit that was not previously a PMPU.

(i) If a group of one or more PMPUs is added to a plant site, the added group of one or more PMPUs and their associated equipment, as listed in paragraph (a)(4) of this section, shall be a new affected source and shall comply

with the requirements for a new affected source in this subpart upon initial start-up or by June 1, 1999, whichever is later, if the added group of one or more PMPUs meets the criteria specified in paragraph (g)(1)(i)(A) of this section and either meets the criteria in paragraph (g)(1)(i)(B) or (C) of this section.

(A) The process units are new process units, as defined in § 63.1423.

(B) The added group of one or more PMPUs and associated equipment, as listed in paragraph (a)(4) of this section, has the potential to emit 10 tons per year (9.1 megagrams per year) or more of any organic HAP or 25 tons per year (22.7 megagrams per year) or more of any combination of organic HAP, and polyether polyols are currently produced at the plant site as the primary product of an affected source.

(C) A polyether polyol is not currently produced at the plant site as the primary product of an affected source, and the plant site meets, or after the addition is constructed will meet, the General Provisions' definition of a major source in § 63.2.

(ii) If a group of one or more PMPUs is added to a plant site, and the added group of one or more PMPUs does not meet the criteria specified in paragraph (g)(1)(i)(A) of this section and one of the criteria specified in either paragraph (g)(1)(i)(B) or (C) of this section, and the plant site meets, or after the addition will meet, the definition of a major source, the owner or operator of the added group of one or more PMPUs and associated equipment, as listed in paragraph (a)(4) of this section, shall comply with the requirements for an existing affected source in this subpart upon initial start-up; by June 1, 2002; or by 6 months after notifying the Administrator that a process unit has been designated as a PMPU (in accordance with paragraph (g)(3) of this section), whichever is later.

(2) *Adding emission points or making process changes to existing affected sources.* The provisions of paragraphs (g)(2)(i), (ii), and (iii) of this section apply to the owner or operator that adds emission points or makes process changes to an existing affected source.

(i) If any components are replaced at an existing affected source such that

the criteria specified in paragraphs (g)(2)(i)(A) and (B) of this section are met, the entire affected source shall be a new affected source and shall comply with the requirements for a new affected source upon initial start-up or by June 1, 1999, whichever is later.

(A) The replacement of components meets the definition of reconstruction in § 63.1423(b). For purposes of determining whether the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct an entire affected source, the equivalent capital cost shall be the entire potentially affected source; and

(B) Such reconstruction commenced after September 4, 1997.

(ii) If any components are replaced at an existing affected source such that the criteria specified in paragraphs (g)(2)(i)(A) and (B) of this section are not met and that replacement of components creates one or more emission points (*i.e.*, either newly created Group 1 emission points or emission points that change from Group 2 to Group 1) or causes any other emission point to be added (*i.e.*, Group 2 emission points, heat exchange systems subject to § 63.1435, or equipment leak components subject § 63.1434), the resulting emission point(s) shall be subject to the applicable requirements for an existing affected source. The resulting emission point(s) shall be in compliance upon initial start-up or by the appropriate compliance date specified in § 63.1422 (*i.e.*, December 1, 1999 for most equipment leak components subject to § 63.1434, and June 1, 2002 for emission points other than equipment leaks), whichever is later.

(iii) If an addition or process change (not including a process change that solely replaces components) is made that creates one or more Group 1 emission points (*i.e.*, either newly created Group 1 emission points or emission points that change group status from Group 2 to Group 1) or causes any other emission point to be added (*i.e.*, Group 2 emission points, heat exchange systems subject to § 63.1435, or equipment leak components subject to § 63.1434), the resulting emission point(s) shall be subject to the applicable requirements

for an existing affected source. The resulting emission point(s) shall be in compliance by initial start-up or by the appropriate compliance date specified in § 63.1422 (*i.e.*, December 1, 1999 for most equipment leak components subject to § 63.1434, and June 1, 2002 for emission points other than equipment leaks), whichever is later.

(3) *Determining what are and are not process changes.* For purposes of paragraph (g) of this section, examples of process changes include, but are not limited to, additions in process equipment resulting in changes in production capacity; production of a product outside the scope of the compliance demonstration; or whenever there is a replacement, removal, or addition of recovery equipment. For purposes of paragraph (g) of this section, process changes do not include: process upsets, unintentional temporary process changes, and changes that do not alter the equipment configuration and operating conditions.

(4) *Reporting requirements for owners or operators that change or add to their plant site or affected source.* An owner or operator that changes or adds to their plant site or affected source, as discussed in paragraphs (g)(1) and (g)(2) of this section, shall submit a report as specified in § 63.1439(e)(7)(iii).

(h) *Applicability of this subpart during periods of start-up, shutdown, malfunction, or non-operation.* Paragraphs (h)(1) through (4) of this section shall be followed during periods of start-up, shutdown, malfunction, and non-operation of the affected source or any part thereof.

(1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of nonoperation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. These emission limitations shall not apply during periods of start-up, shutdown, or malfunction, except as provided in paragraphs (h)(3) and (4) of this section. However, if a start-up, shutdown, malfunction, or period of nonoperation of one portion of an affected source does not affect the ability of a particular emission point to comply with the

emission limitations to which it is subject, then that emission point shall still be required to comply with the applicable emission limitations of this subpart during the start-up, shutdown, malfunction, or period of nonoperation. For example, if there is an overpressure in the reactor area, a storage vessel that is part of the affected source would still be required to be controlled in accordance with the storage tank provisions in § 63.1432. Similarly, the degassing of a storage vessel would not affect the ability of a process vent to meet the emission limitations for process vents in §§ 63.1425 through 63.1430.

(2) The emission limitations set forth in 40 CFR part 63, subpart H, as referred to in the equipment leak provisions in § 63.1434, shall apply at all times except during periods of nonoperation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which § 63.1434 applies, or during periods of start-up, shutdown, malfunction, or process unit shutdown (as defined in § 63.161).

(3) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with this subpart during periods of start-up, shutdown, or malfunction during times when emissions (or, where applicable, wastewater streams or residuals) are being routed to such items of equipment if the shutdown would contravene requirements applicable to such items of equipment. This paragraph does not apply if the item of equipment is malfunctioning. This paragraph also does not apply if the owner or operator shuts down the compliance equipment (other than monitoring systems) to avoid damage due to a contemporaneous start-up, shutdown, or malfunction of the affected source or portion thereof. If the owner or operator has reason to believe that monitoring equipment would be damaged due to a contemporaneous start-up, shutdown, or malfunction of the affected source or portion thereof, the owner or operator shall provide documentation supporting such a claim in the Precompliance Report or in a supplement to the Precompliance Report,

as provided for in § 63.1439(e)(4). Once approved by the Administrator in accordance with § 63.1439(e)(4)(vii), the provision for ceasing to collect, during a start-up, shutdown, or malfunction, monitoring data that would otherwise be required by the provisions of this subpart shall be incorporated into the start-up, shutdown, malfunction plan for that affected source, as stated in § 63.1439(b)(1).

(4) During start-ups, shutdowns, and malfunctions when the emission limitations of this subpart do not apply pursuant to paragraphs (h)(1) through (3) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions to the extent practical. For purposes of this paragraph, the term “excess emissions” means emissions greater than those allowed by the emissions limitation which would apply during operational periods other than start-up, shutdown, and malfunction. The measures to be taken shall be identified in the applicable start-up, shutdown, and malfunction plan, and may include, but are not limited to, air pollution control technologies, recovery technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the affected source. Use of back-up control techniques is not required, but is allowed, if available.

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§ 63.1421 Implementation and enforcement.

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or Tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or Tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or Tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or Tribal agency

under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the State, local, or Tribal agency.

(c) The authorities that cannot be delegated to State, local, or Tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the requirements in §§ 63.1420, 63.1422, 63.1424 through 63.1428, and 63.1432 through 63.1436. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

[68 FR 37359, June 23, 2003]

§ 63.1422 Compliance dates and relationship of this rule to existing applicable rules.

(a) [Reserved]

(b) New affected sources that commence construction or reconstruction after September 4, 1997 shall be in compliance with this subpart upon initial start-up or by June 1, 1999, whichever is later.

(c) Existing affected sources shall be in compliance with this subpart (except for § 63.1434 for which compliance is covered by paragraph (d) of this section) no later than June 1, 2002, as provided in § 63.6(c), unless an extension has been granted as specified in paragraph (e) of this section.

(d) Except as provided for in paragraphs (d)(1) through (5) of this section, existing affected sources shall be in