

§ 63.1549

40 CFR Ch. I (7–1–12 Edition)

before startup of the constructed or reconstructed primary lead processor, but no sooner than September 2, 1999.

[76 FR 70857, Nov. 15, 2011]

§ 63.1549 Recordkeeping and reporting requirements.

(a) The owner or operator of a primary lead processor must comply with the recordkeeping requirements of § 63.10 of subpart A, General Provisions as specified in Table 1 of this subpart.

(b) In addition to the general records required by paragraph (a) of this section, each owner or operator of a primary lead processor must maintain for a period of 5 years, records of the information listed in paragraphs (b)(1) through (10) of this section.

(1) Production records of the weight and lead content of lead products, copper matte, and copper speiss.

(2) Records of the bag leak detection system output.

(3) An identification of the date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, and the date and time the cause of the alarm was corrected.

(4) Any recordkeeping required as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1547(a).

(5) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(d) by employing the method allowed in § 63.1547(i)(1), the records of the daily doorway in-draft checks, an identification of the periods when there was not a positive in-draft, and an explanation of the corrective actions taken.

(6) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(d) by employing the method allowed in § 63.1547(i)(2), the records of the output from the continuous volumetric flow monitor(s), an identification of the periods when the 15-minute volumetric flow rate dropped below the minimum established during the most recent in-draft determina-

tion, and an explanation of the corrective actions taken.

(7) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(d) by employing the method allowed in § 63.1547(i)(2), and volumetric flow rate is monitored at the baghouse inlet, records of the daily checks of damper positions, an identification of the days that the damper positions were not in the positions established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(8) Records of the occurrence and duration of each malfunction of operation (*i.e.*, process equipment) or the air pollution control equipment and monitoring equipment.

(9) Records of actions taken during periods of malfunction to minimize emissions in accordance with §§ 63.1543(i) and 63.1544(d), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(c) Records for the most recent 2 years of operation must be maintained on site. Records for the previous 3 years may be maintained off site.

(d) The owner or operator of a primary lead processor must comply with the reporting requirements of § 63.10 of subpart A, General Provisions as specified in Table 1 of this subpart.

(e) In addition to the information required under § 63.10 of the General Provisions, the owner or operator must provide semi-annual reports containing the information specified in paragraphs (e)(1) through (9) of this section to the Administrator or designated authority.

(1) The reports must include records of all alarms from the bag leak detection system specified in § 63.1547(e).

(2) The reports must include a description of the actions taken following each bag leak detection system alarm pursuant to § 63.1547(f).

(3) The reports must include a calculation of the percentage of time the alarm on the bag leak detection system sounded during the reporting period pursuant to § 63.1547(g).

(4) If an owner or operator chooses to demonstrate continuous compliance

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with the sinter building in-draft requirement under § 63.1543(d) by employing the method allowed in § 63.1547(i)(1), the reports must contain an identification of the periods when there was not a positive in-draft, and an explanation of the corrective actions taken.

(5) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(d) by employing the method allowed in § 63.1547(i)(2), the reports must contain an identification of the periods when the 15-minute volumetric flow rate(s) dropped below the minimum established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(6) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(d) by employing the method allowed in § 63.1547(i)(2), and volumetric flow rate is monitored at the baghouse inlet, the reports must contain an identification of the days that the damper positions were not in the positions established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(7) The reports must contain a summary of the records maintained as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1547(a), including an explanation of the periods when the procedures were not followed and the corrective actions taken.

(8) The reports shall contain a summary of the fugitive dust control measures performed during the required reporting period, including an explanation of any periods when the procedures outlined in the standard operating procedures manual required by § 63.1544(a) were not followed and the corrective actions taken. The reports shall not contain copies of the daily records required to demonstrate compliance with the requirements of the standard operating procedures manuals required under §§ 63.1544(a) and 63.1547(a).

(9) If there was a malfunction during the reporting period, the report shall also include the number, duration, and a brief description for each type of

malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with §§ 63.1543(i) and 63.1544(d), including actions taken to correct a malfunction.

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§ 63.1550 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 112(l) of the act, the authorities contained in paragraph (b) of this section must be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States: No restrictions.

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§ 63.1551 Affirmative defense for exceedance of emission limit during malfunction.

In response to an action to enforce the standards set forth in this subpart you may assert an affirmative defense to a claim for civil penalties for exceedances of such standards that are caused by malfunction, as defined at 40 CFR 63.2. Appropriate penalties may be assessed, however, if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(a) *Affirmative defense.* To establish the affirmative defense in any action to enforce such a limit, you must timely meet the notification requirements in paragraph (b) of this section, and must prove by a preponderance of evidence that:

(1) The excess emissions:

(i) Were caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner, and

(ii) Could not have been prevented through careful planning, proper design