

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[FRL-7118-7]

RIN 2060-AE44

National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action to amend the national emission standards for hazardous air pollutants (NESHAP) for phosphoric acid manufacturing plants and the NESHAP for phosphate fertilizers production plants which were promulgated on June 10, 1999 under authority of section 112 of the Clean Air Act (CAA). The NESHAP apply to owners and operators of phosphoric acid and phosphate fertilizers production facilities that are major sources of hazardous air pollutants (HAP). The EPA is amending specific provisions in the NESHAP to resolve issues and questions raised after promulgation of the final rules. The amendments do not significantly change EPA's original projections for the environmental benefits, compliance costs, and burden on industry, and do not affect the number of affected facilities.

DATES: The direct final rule will be effective on February 15, 2002 without further notice, unless significant adverse comments are received by January 16, 2002.

If significant material adverse comments are received by January 16, 2002, this direct final rule will be

withdrawn and the comments addressed in a subsequent final rule based on the proposed rule. If no significant material adverse comments are received, no further action will be taken on the proposal and this direct final rule will become effective on February 15, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-94-02, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-94-02, Room M-1500, U.S. EPA, 401 M Street, SW., Washington DC 20460. The EPA requests a separate copy of the comments also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ms. Tanya Medley, Minerals and Inorganic Chemicals Group, Emission Standards Division (MC-C504-05), U.S. EPA, Research Triangle Park, North Carolina 27709, telephone number (919) 541-5422, facsimile number (919) 541-5600, electronic mail (e-mail) address: medley.tanya@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. We are publishing this direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct

final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this direct final rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. The docket number for this rulemaking is A-94-02.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: <http://www.epa.gov/ttn/oarpg>. The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Regulated Entities. Today's action applies to process components at new and existing phosphoric acid manufacturing plants and phosphate fertilizers production plants. Regulated categories and entities include:

Source category	SIC	NAICS	Examples of regulated entities
Industrial	2874	325314	Phosphoric acid manufacturing facilities (wet process phosphoric acid process line, superphosphoric acid process line, phosphate rock dryer, phosphate rock calciner, purified phosphoric acid process line).
Industrial	2874	325314	Phosphate fertilizers production (diammonium and/or monoammonium phosphate process line, granular triple superphosphate process line, granular triple superphosphate storage building).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria of the rules. If you have questions regarding the applicability of this action to a

particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

Under section 307(b)(1) of the CAA, judicial review of this direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for

the District of Columbia Circuit by February 15, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to a rule or procedure raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this direct

final rule may not be challenged separately in any civil or criminal proceeding brought to enforce these requirements.

Outline

The information presented in this preamble is organized as follows:

- I. Background
- II. Amendments Specific to Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
 - A. Standards for Existing Sources
 - B. Standards for New Sources
 - C. Monitoring Requirements
- III. Amendments to Both Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
 - A. Applicability
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- IV. Administrative Requirements
 - A. Executive Order 12866, Regulatory Planning and Review
 - B. Executive Order 13132, Federalism
 - C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
 - D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
 - E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - F. Unfunded Mandates Reform Act of 1995
 - G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
 - H. Paperwork Reduction Act
 - I. National Technology Transfer and Advancement Act of 1995
 - J. Congressional Review Act

I. Background

The EPA, under 40 CFR part 63, subparts AA and BB, promulgated NESHAP for Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants. The NESHAP established standards to control HAP emissions from facilities producing phosphoric acid and phosphate fertilizers. The standards were promulgated on June 10, 1999 (64 FR 31358).

On August 4, 1999, The Fertilizer Institute filed for judicial review of the NESHAP, as provided for in CAA section 307(b), with respect to certain provisions regarding emissions standards for phosphate rock calciners, monitoring requirements in general, and applicability of the general provisions.

II. Amendments Specific to Subpart AA—National Emissions Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

The EPA is amending 40 CFR part 63, subpart AA, to correct errors, to revise the emissions limit for phosphate rock calciners, to clarify certain monitoring requirements, and to clarify applicability of certain parts of the general provisions.

A. Standards for Existing Sources

The EPA promulgated standards for phosphate rock calciners based on performance of the floor technology which was identical wet scrubbing technology installed on six identical calciners at one facility, plus data from a calciner with wet scrubbers at a second facility. The promulgated standard under 40 CFR 63.602 for existing calciners of 0.1380 grams per dry standard cubic meter (g/dscm)(0.060

grains per dry standard cubic foot (gr/dscf)) was based on emissions data for the floor technology which was available to EPA at that time. Subsequent to the petition, additional emissions and operating data from compliance tests of those same scrubbers over a 7-year period were submitted to EPA. The data covered a range that exceeded the promulgated standards. Therefore, upon review of the operating and emission data from the same scrubbers upon which the promulgated standards were based, the EPA is changing the emission standard under 40 CFR 63.602 for existing calciners to 0.1810 g/dscm (0.080 gr/dscf).

B. Standards for New Sources

The standards for new phosphate rock dryers in 40 CFR 63.603(c) are being revised to correct an error in the units of the standards. The promulgated rule included units of kilogram/metric ton per megagram of phosphate rock feed. The standards are being corrected to units of kilogram/megagram of phosphate rock feed.

C. Monitoring Requirements

The promulgated monitoring requirements under 40 CFR 63.605 require the owner or operator of each new or existing phosphate rock dryer or phosphate rock calciner to install a system to permanently record the mass flow of feed material to the process. Due to process variations and available measurement techniques, it is easier to accurately measure the rock dryer and calciner outputs than to measure the input. Therefore, the EPA is revising 40 CFR 63.605 to specify that the phosphate rock dryer and phosphate

rock calciner output rates be monitored and recorded. That change does not affect the stringency of the standards for those sources. Since the standards for rock dryers under 40 CFR 63.602 and 63.603 are in the format of kilogram/megagram or metric ton (pounds/ton) of rock feed, the owner/operator of the source will either need to measure the feed rate and production rate during compliance tests, or measure the product rate and the moisture contents of the feed and output product to then calculate the feed rate and show compliance.

III. Amendments to Both Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants

The EPA is amending 40 CFR part 63, subparts AA and BB, for applicability, monitoring requirements, and applicability of the general provisions.

A. Applicability

The applicability criteria in 40 CFR 63.600 and 63.620 are being clarified to state that excursions from applicable emissions limits and operating parameter ranges during periods of startup, shutdown or malfunction are not violations of the standards, provided the source is operated in accordance with the Startup, Shutdown, and Malfunction Plan submitted pursuant to 40 CFR 63.6(e)(3) and complies with the duty pursuant to 40 CFR 63.6(e)(i) to operate in a manner consistent with good air pollution control practices for minimizing emissions.

B. Monitoring Requirements

The monitoring requirements in 40 CFR 63.605(d) and 63.625(f) are being clarified to specifically identify the averaging period as a daily average. The monitoring requirements in 40 CFR 63.605(d) and 63.625(f) are being clarified to allow a source to retain a previously established parameter range if the last compliance test shows compliance with the emissions limits and the operating parameters fall within the established range.

The monitoring requirements in 40 CFR 63.605(d) and 63.625(f) are being changed to correct an error. Those sections as promulgated require compliance with new operating parameter ranges the day after a new compliance emissions test. That cannot be done as test samples need to be analyzed, and any new parameter ranges need to be established. Therefore, those

sections are being changed to allow 30 days after submittal of test results to the permitting Agency before compliance with any new operating limits is required.

C. Applicability of General Provisions

The applicability of the general provisions requirements in 40 CFR 63.608 and 63.628 both refer to an appendix A in each rule. Both appendices list 40 CFR part 63, subpart A citations to § 63.6(e)(1) and (2), (e)(3), and (f) in the first column of each table and show a comment column with comments regarding additional requirements. The comments portion for the citations was erroneously included in the promulgated rules and are deleted under this action.

IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is “significant” and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines “significant regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the amendments do not constitute a “significant regulatory action” because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State

and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA’s prior consultation with State and local officials, a summary of the nature of their concerns and EPA’s position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, the EPA must include a certification from the EPA’s Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

The rule amendments will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The rule amendments would not impose directly enforceable requirements on States, nor would they preempt them from adopting their own more stringent programs to control emissions. Thus, the requirements of section 6 of the Executive Order do not apply to these rule amendments.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” are defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

The rule amendments do not have tribal implications. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. No tribal governments are known to own or operate phosphoric acid manufacturing facilities or phosphate fertilizers production facilities. Thus, Executive Order 13175 does not apply to the rule amendments.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. These rule amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the rule amendments have been determined

not to be "economically significant" as defined under Executive Order 12866.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy, Supply, Distribution, or Use

The direct final rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not significant regulatory actions under Executive Order 12866.

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Because today's amendments do not add new requirements or costs, the EPA has determined that the rule amendments do not contain a Federal mandate that may result in expenditures

of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, the amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that the rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, today's rule amendments are not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this direct final rule on small entities, the EPA found that 2 of the 21 firms that potentially could be subject to the standards are small firms. Of the two, data indicate that one is an area source which would not be covered by the standards. The second source could be major and subject to the requirements of the standards. Information available to EPA shows, however, that the second source is able to achieve the control levels associated with the promulgated rules using existing equipment. The second source would not be significantly impacted by this proposed action because it clarifies and makes corrections to the promulgated rules but imposes no additional regulatory requirements.

Because today's rule amendments impose no additional regulatory requirements on owners or operators of phosphoric acid manufacturing plants or phosphate fertilizers production plants, the EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

H. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the phosphoric acid manufacturing and phosphate fertilizers production NESHAP under the

provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB Control No. 2060-0361. An Information Collection Request (ICR) document has been prepared by EPA, and a copy may be obtained from Sandy Farmer by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260-2740.

The amendments contained in this direct final rule will have no net impact on the information collection burden estimates made previously. Consequently, the ICR has not been revised.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104-113 (March 7, 1996), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when EPA does not use available and applicable voluntary consensus standards.

This action does not involve the use of any new technical standards. Accordingly, the NTTAA requirement to use applicable voluntary consensus standards does not apply to this direct final rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as NESHAP for Phosphoric Acid Manufacturing Phosphate Fertilizers Production 22 added by the SBREFA of 1996, generally provides that before a rule may take effect, the agency adopting the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA will submit a report containing this direct final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of this direct final rule in the **Federal Register**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This direct final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 10, 2001

Christine Todd Whitman,
Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

- The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—[Amended]

- Section 63.600 is amended by revising paragraph (a) and by adding new paragraph (e) to read as follows:

§ 63.600 Applicability.

(a) Except as provided in paragraphs (c), (d), and (e) of this section, the requirements of this subpart apply to the owner or operator of each phosphoric acid manufacturing plant.

* * * * *

(e) The emission limitations and operating parameter requirements of this subpart do not apply during periods of startup, shutdown, or malfunction, as those terms are defined in § 63.2, provided that the source is operated in accordance with § 63.6(e)(1)(i) and the Startup, Shutdown, and Malfunction Plan submitted pursuant to § 63.6(e)(3).

- Section 63.602 is amended by revising paragraph (d) to read as follows:

§ 63.602 Standards for existing sources.

* * * * *

(d) *Phosphate rock calciner.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.606 is required to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.1810 gram per dry standard cubic meter (g/dscm) (0.080 grains per dry standard cubic foot (gr/dscf)).

* * * * *

- Section 63.603 is amended by revising paragraph (c) to read as follows:

§ 63.603 Standards for new sources.

* * * * *

(c) *Phosphate rock dryer.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.606 is required to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.030 kilogram/megagram of phosphate rock feed (0.060 lb/ton).

* * * * *

- Section 63.605 is amended by:

- a. Redesignating paragraph (a) as paragraph (a)(1) and revising newly designated paragraph (a)(1);
- b. Adding new paragraph (a)(2);
- c. Revising paragraph (b)(2); and
- d. Revising paragraphs(d)(1) and (2).

The revisions and additions read as follows:

§ 63.605 Monitoring requirements.

(a)(1) Each owner or operator of a new or existing wet-process phosphoric acid process line or superphosphoric acid process line subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring system which can be used to determine and permanently record the mass flow of phosphorus-bearing feed material to the process. The monitoring system shall have an accuracy of ± 5 percent over its operating range.

(2) Each owner or operator of a new or existing phosphate rock dryer or phosphate rock calciner subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring system which can be used to determine and permanently record either the mass flow of phosphorus-bearing feed material to the dryer or calciner, or the mass flow of product from the dryer or calciner. The monitoring system shall have an accuracy of ± 5 percent over its operating range. Since the emissions limits under §§ 63.602(c) and 63.603(c) for the phosphate rock dryer are in the format of kilogram/megagram (lb/ton) of phosphate rock feed, during performance testing required in § 63.606, the owner or operator that chooses to operate a monitoring system to determine and permanently record the mass flow of product from the dryer must either simultaneously monitor the dryer feed rate and dryer output rate, or monitor the dryer output rate and the dryer input and output moisture contents and calculate the corresponding dryer input rate.

(b)(1) * * *

(2) Each owner or operator of a new or existing phosphate rock calciner or

phosphate rock dryer subject to the provisions of this subpart shall maintain a daily record of the following:

(i) For owners and operators that monitor the mass flow of phosphorus-bearing feed material to the dryer or calciner, a daily record of phosphate rock feed by determining the total mass rate in metric ton/hour of phosphorus-bearing feed using a monitoring system for measuring mass flowrate which meets the requirements of paragraph (a)(2) of this section.

(ii) For owners and operators that monitor the mass flow of product from the dryer or calciner, a daily record of product by determining the total mass rate in metric ton/hour of product using a monitoring system for measuring mass flowrate which meets the requirements of paragraph (a)(2) of this section.

* * * * *

(d) * * *

(1) The allowable range for the daily averages of the pressure drop across each scrubber and of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system is ± 20 percent of the baseline average value determined as a requirement of § 63.606(c)(4), (d)(4), or (e)(2). The Administrator retains the right to reduce the ± 20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard, but, in no instance shall the adjustment be reduced to less than ± 10 percent. The owner or operator must notify the Administrator of the baseline average value and must notify the Administrator each time that the baseline value is changed as a result of the most recent performance test. When a source using the methodology of this paragraph is retested, the owner or operator shall determine whether new allowable ranges of baseline average values will be based upon the new performance test or (if the new performance test results are within the previously established range) whether there will be no change in the operating parameters derived from previous tests. When a source using the methodology of this paragraph is retested and the performance test results are submitted to the Administrator pursuant to §§ 63.607(c)(1), 63.7(g)(1), and/or 63.10(d)(2), the owner or operator will indicate whether the operating range will be based on the new performance test or the previously established range. If the Administrator has not denied approval of the new operating ranges within 30 days of submission of the

performance test results, the new ranges shall be deemed approved and the new baseline value shall then be effective on the 31st day following submission.

(2) The owner or operator of any new or existing affected source shall establish, and provide to the Administrator for approval, allowable ranges for the daily averages of the pressure drop across and of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system for the purpose of assuring compliance with this subpart. Allowable ranges may be based upon baseline average values recorded during previous performance tests using the test methods required in § 63.606(c)(4), (d)(4), or (e)(2). As an alternative, the owner or operator can

establish the allowable ranges using the results of performance tests conducted specifically for the purposes of this paragraph using the test methods required in this subpart and established in the manner required in § 63.606(c)(4), (d)(4), or (e)(2). The source shall certify that the control devices and processes have not been modified subsequent to the testing upon which the data used to establish the allowable ranges were obtained. The allowable ranges developed pursuant to the provisions of this paragraph must be submitted to the Administrator for approval. The owner or operator must request and obtain approval of the Administrator for changes to the allowable ranges. When a source using the methodology of this

paragraph is retested, the owner or operator shall determine new allowable ranges of baseline average values unless the retest indicates no change in the operating parameters outside the previously established ranges. If the Administrator has not denied approval of the new operating ranges within 30 days of submission of the performance test results, the new ranges shall be deemed approved and the new baseline value shall then be effective on the 31st day following submission.

* * * * *

6. Appendix A to subpart AA is amended by revising the entries “63.6(e)(1) and (2),” “63.6(e)(3),” and “63.6(f)” to read as follows:

APPENDIX A TO SUBPART AA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART AA

40 CFR citation	Requirement	Applies to subpart AA	Comment
*	*	*	*
63.6(e)(1) and (2)	Operation & Maintenance Requirements	Yes.	
63.6(e)(3)	Startup, Shutdown, and Malfunction Plan	Yes.	
63.6(f)	Compliance with Emission Standards	Yes.	
*	*	*	*

Subpart BB—[Amended]

7. Section 63.620 is amended by revising paragraph (a) and by adding new paragraph (e) to read as follows:

§ 63.620 Applicability.

(a) Except as provided in paragraphs (c), (d), and (e) of this section, the requirements of this subpart apply to the owner or operator of each phosphate fertilizers production plant.

* * * * *

(e) The emission limitations and operating parameter requirements of this subpart do not apply during periods of startup, shutdown, or malfunction, as those terms are defined in § 63.2, provided that the source is operated in accordance with § 63.6(e)(1)(i) and the Startup, Shutdown, and Malfunction Plan submitted pursuant to § 63.6(e)(3).

8. Section 63.625 is amended by revising paragraphs (f)(1) and (2) to read as follows:

§ 63.625 Monitoring requirements.

* * * * *

(f) *

(1) The allowable range for the daily averages of the pressure drop across each scrubber and of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system is ±20 percent of the baseline average value

determined as a requirement of § 63.626(c)(4) or (d)(4). The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard, but in no instance shall the adjustment be reduced to less than ±10 percent. The owner or operator must notify the Administrator of the baseline average value and must notify the Administrator each time that the baseline value is changed as a result of the most recent performance test. When a source using the methodology of this paragraph is retested, the owner or operator shall determine whether new allowable ranges of baseline average values will be based upon the new performance test or (if the new performance test results are within the previously established range) whether there will be no change in the operating parameters derived from previous tests. When a source using the methodology of this paragraph is retested and the performance test results are submitted to the Administrator pursuant to §§ 63.627(c)(1), 63.7(g)(1), and/or 63.10(d)(2), the owner or operator will indicate whether the operating range

will be based on the new performance test or the previously established range. If the Administrator has not denied approval of the new operating ranges within 30 days of submission of the performance test results, the new ranges shall be deemed approved and the new baseline value shall then be effective on the 31st day following submission.

(2) The owner or operator of any new or existing affected source shall establish, and provide to the Administrator for approval, allowable ranges for the daily averages of the pressure drop across and of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system for the purpose of assuring compliance with this subpart. Allowable ranges may be based upon baseline average values recorded during previous performance tests using the test methods required in § 63.626(c)(4) or (d)(4). As an alternative, the owner or operator can establish the allowable ranges using the results of performance tests conducted specifically for the purposes of this paragraph using the test methods required in this subpart and established in the manner required in § 63.626(c)(4) or (d)(4). The source shall certify that the control devices and processes have not been modified subsequent to the testing upon which the data used to

establish the allowable ranges were obtained. The allowable ranges developed pursuant to the provisions of this paragraph must be submitted to the Administrator for approval. The owner or operator must request and obtain approval of the Administrator for changes to the allowable ranges. When a source using the methodology of this

paragraph is retested, the owner or operator shall determine new allowable ranges of baseline average values unless the retest indicates no change in the operating parameters outside the previously established ranges. If the Administrator has not denied approval of the new operating ranges within 30 days of submission of the performance

test results, the new ranges shall be deemed approved and the new baseline value shall then be effective on the 31st day following submission.

9. Appendix A to subpart BB is amended by revising the entries “63.6(e)(1) and (2),” “63.6(e)(3),” and “63.6(f)” to read as follows:

APPENDIX A TO SUBPART BB OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART BB

40 CFR citation	Requirement	Applies to subpart BB	Comment
*	*	*	*
63.6(e)(1) and (2)	Operation & Maintenance Requirements	Yes.	
63.6(e)(3)	Startup, Shutdown, and Malfunction Plan	Yes.	
63.6(f)	Compliance with Emission Standards	Yes.	
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