ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0037; FRL–5678–03–OAR]

RIN 2060–AR73

National Emission Standards for Hazardous Air Pollutants: Polyvinyl Chloride and Copolymer Production Reconsideration; New Major Source Process Wastewater Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is finalizing amendments to the national emission standards for hazardous air pollutants (NESHAP) for the Polyvinyl Chloride (PVC) and Copolymer Production source category (''PVC NESHAP'') under Clean Air Act (CAA) section 112. For new major sources, the EPA is finalizing the removal of the total non-vinyl chloride organic hazardous air pollutant (HAP) process wastewater emission limit and the associated testing, monitoring, recordkeeping, and reporting requirements. The EPA is also finalizing that the new major source vinyl chloride emission limit acts as a surrogate for non-vinyl chloride organic HAP emissions from process wastewater. The EPA is not taking final action on other aspects of the reconsideration proposal at this time.

DATES: This final rule is effective on November 9, 2026.

ADDRESSES: The EPA established a docket for this action under Docket ID No. EPA–HQ–OAR–2002–0037. The docket lists all documents at *https://www.regulations.gov.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The EPA does not place certain other material, such as copyrighted material, on the internet; this material is publicly available only as portable document format versions accessible only on EPA computers in the docket office reading room. The public cannot download certain databases and physical items from the docket but may request these items by contacting the docket office at (202) 566–1744. The docket office has 10 business days to respond to such requests. With the exception of such material, publicly available docket materials are available electronically at *https://www.regulations.gov* or on EPA computers in the docket office reading room at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Time (ET), Monday through Friday (except Federal holidays). The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information about this final rule, contact U.S. EPA, Attn: William Gallagher, Mail Drop: Industrial Processing and Power Division (E140C), 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2336; and email address: *gallagher.william@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this preamble the use of ''we,'' ''us,'' or ''our'' refers to the EPA. The EPA uses multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CFR Code of Federal Regulations
CRA Congressional Review Act
EPA Environmental Protection Agency
Fe fraction emitted
Fr fraction removed
FR Federal Register
GACT generally available control technology
HAP hazardous air pollutant
HON Hazardous Organic NESHAP
ICR information collection request
MACT maximum achievable control technology
MON Miscellaneous Organic Chemical Manufacturing NESHAP
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
ppmw part per million by weight
PRA Paperwork Reduction Act
PRD Pressure relief device
PM particulate matter
PVC polyvinyl chloride
PVCPU PVC and copolymer production process unit
RDL representative detection level
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
tpy ton per year
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code

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I. General Information

A. Executive Summary

On April 17, 2012, the EPA codified standards for the PVC and Copolymer Production source category at 40 Code of Federal Regulations (CFR) part 63, subpart HHHHHHH (''2012 Final Rule'').[1] Subsequently, industry

[1] The EPA also finalized revisions to the area source NESHAP, codified at 40 CFR part 63, subpart DDDDDD, in the 2012 Final Rule. 77 FR 22848 (April 17, 2012).

stakeholders notified the EPA that the Agency used data from outside the PVC and Copolymer Production source category to set the total non-vinyl chloride organic HAP process wastewater emission limits for new major sources and new and existing area sources. The EPA agreed with stakeholders, and in February 2015, the Agency issued a direct final rule to rescind the total non-vinyl chloride organic HAP process wastewater emission limits for new and existing PVC and copolymer production area sources (''2015 Final Rule'').[2]

On November 9, 2020, the EPA proposed reconsideration (''2020 Proposal'') of several aspects of the PVC NESHAP in response to petitions for reconsideration on the 2012 Final Rule.[3] As part of that action, the EPA proposed to remove the new and existing major source total non-vinyl chloride organic HAP process wastewater emission limits and the associated testing, monitoring, recordkeeping, and reporting requirements. In addition, the EPA proposed that vinyl chloride can act as a surrogate for non-vinyl chloride organic HAP in PVC and copolymer production process wastewater. This action finalizes the removal of the total non-vinyl chloride organic HAP process wastewater emission limit for new major PVC and copolymer production sources and associated testing, monitoring, recordkeeping, and reporting requirements and finalizes the proposed surrogacy.

This action will have no immediate cost or emissions impacts as it does not affect existing sources, and the EPA is unaware of any new sources currently subject to the rule. If a new major source PVC and copolymer production facility becomes operational in the future, the EPA estimates that this action will save the facility approximately $2,900 in capital/startup costs and $30,000 in annual costs (in 2025 dollars) due to the reduction in total non-vinyl chloride organic HAP testing, monitoring, recordkeeping, and reporting burdens.

B. Does this action apply to me?

Regulated entities. This final action addresses the PVC and Copolymer Production source category regulated under 40 CFR part 63, subpart HHHHHHH. Table 1 of this preamble lists the NESHAP and the associated regulated industrial source category that this action may affect.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORY AFFECTED BY THIS FINAL ACTION

NESHAP	Source category	NAICS[a] code
40 CFR part 63, subpart HHHHHHH	PVC and Copolymer Production	325211

[a] North American Industry Classification System (NAICS).

The EPA provides table 1 of this preamble as a guide, not an exhaustive list, of entities that this final rule likely affects for the listed source category. This final rule does not affect Federal, State, local, or Tribal government entities.

To determine whether this action affects your facility, examine the applicability criteria of this NESHAP. If you have any questions regarding the applicability of this NESHAP, contact the appropriate person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. What is the statutory authority for this action?

CAA section 112, as amended, provides the statutory authority for this action.[4] CAA section 112 establishes a multi-stage regulatory process to develop standards for emissions of HAP from stationary sources. Generally, the first stage involves establishing technology-based standards that reflect application of the maximum achievable control technology (MACT) or appropriate alternative.[5] The second stage involves evaluating those standards within 8 years under CAA section 112(f)(2) to determine whether the EPA needs to promulgate standards to address any remaining risk associated with HAP emissions.[6] This second stage is commonly referred to as the ''residual risk review.'' In addition to conducting the residual risk review, pursuant to CAA section 112(d)(6), the EPA must review the standards every 8 years and to ''revise [them] as necessary,'' taking into account any ''developments in practices, processes, and control technologies.'' [7] This review is commonly referred to as the ''technology review.''

In the first stage of the CAA section 112 standard-setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). The CAA refers to sources of HAP emissions as either major sources or area sources. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP.[8] All other sources are ''area sources.'' CAA section 112 establishes different requirements for major source standards and area source standards. For major sources, CAA section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of reduction in emissions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards. In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

CAA section 112(d)(3) establishes a minimum control level for MACT standards, known as the MACT ''floor,'' based on emission controls achieved in practice by the best performing sources. For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. For existing sources, the MACT standards can be less stringent than floors for new sources, but the standards cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer

[2] 40 FR 5938 (February 4, 2015).
[3] 85 FR 71490 (November 9, 2020).
[4] 42 U.S.C. 7412.
[5] *Id.* 7412(d)(1)–(3).
[6] *Id.* 7412(f)(2).
[7] *Id.* 7412(d)(6).
[8] *Id.* 7412(a)(1).

than 30 sources).[9] In certain instances, as provided in CAA section 112(h), the EPA may set work practice standards in lieu of numerical emission standards. The EPA must also consider control options that are more stringent than the floor, often referred to as ''beyond-the-floor'' standards, and may establish standards more stringent than the floor taking into consideration the cost of achieving the emission reductions, and any non-air quality health and environmental impacts and energy requirements.[10]

In the second stage of the regulatory process, for categories of major sources and any area source categories subject to MACT standards, CAA section 112 requires the EPA to identify and address any remaining (*i.e.,* ''residual'') risk within 8 years pursuant to CAA section 112(f)(2) and to conduct a technology review pursuant to CAA section 112(d)(6). This latter provision requires the EPA to review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years. In conducting the technology review, the EPA is not required to recalculate the MACT floors that the Agency established in earlier rulemakings.[11] The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6).[12] Finally, the EPA reviews available data to determine if there are certain unregulated emissions of HAP within the major source category and evaluates these data for use in developing new emission standards.[13]

For the residual risk review required by CAA section 112(f), within 8 years of promulgating the technology-based standards for a source category, the EPA must evaluate the risk to public health remaining after the application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect, taking into consideration costs, energy, safety, and other relevant factors. For categories of area sources subject to generally available control technologies or management practices (GACT) standards, the CAA does not require the EPA to address residual risk. However, CAA section 112(d)(6) requires the EPA to conduct a technology review for all standards established under CAA section 112(d), including GACT standards that apply to area sources. For categories of area sources subject to GACT standards, CAA section 112(d)(5) and (f)(5) provide that the EPA is not required to conduct a residual risk review under CAA section 112(f)(2).

The EPA first set MACT standards for the PVC and Copolymer Production major source category in 2002 (''2002 Final Rule'').[14] Upon vacatur and remand by the United States Court of Appeals for the District of Columbia Circuit (''D.C. Circuit''),[15] the EPA promulgated new MACT standards for the PVC and Copolymer Production source category for major sources and revised the area source NESHAP in the 2012 Final Rule.[16] After receiving petitions for reconsideration of the 2012 Final Rule, the EPA proposed reconsideration of several aspects of that rule in the 2020 Proposal.[17] This final action addresses only the proposed reconsideration of the new major source total non-vinyl chloride organic HAP process wastewater emission limit. The EPA intends to address the remaining issues presented in the 2020 Proposal in a separate action.

D. Where can I get a copy of this document and other related information?

In addition to placing this action in the docket, the EPA provides an electronic copy on the internet. Following signature by the EPA Administrator, the Agency will post a copy of this action at *https://www.epa.gov/stationary-sources-air-pollution/polyvinyl-chloride-and-copolymers-production-national-emission.* Following publication in the **Federal Register** (FR), the EPA will post the **Federal Register** version of the final rule and key technical documents at this same website. The EPA has placed in the docket a memorandum showing the ''track changes'' version of the regulatory language that incorporates the changes in this action.[18]

E. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), a party may obtain judicial review of this action only by filing a petition for review in the D.C. Circuit by January 8, 2027. CAA section 307(b)(2) prohibits a party from separately challenging this final rule in any civil or criminal enforcement proceedings that the EPA brings.

CAA section 307(d)(7)(B) provides that, during judicial review, a party may raise only an objection to a rule or procedure that the party raised with reasonable specificity during the period for public comment (including any public hearing). This section also requires the EPA to reconsider the rule if the person raising an objection demonstrates to the Administrator that either it was impracticable to raise the objection during the period for public comment or that the grounds for the objection arose after the period for public comment (but within the time specified for judicial review) and if the objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a petition for reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460. The person should also send a copy to both the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the PVC and Copolymer Production source category, and how does the NESHAP regulate HAP emissions from the source category?

The EPA first promulgated the PVC and Copolymer Production source category NESHAP with the 2002 Final Rule and codified the NESHAP at 40 CFR part 63, subpart J.[19] Following judicial review, the D.C. Circuit vacated and remanded the 2002 Final Rule to the EPA after determining that the Agency failed to adequately explain the basis for the decision to use vinyl chloride as a surrogate for other HAP.[20] The EPA separately promulgated an area source NESHAP for the PVC and Copolymer Production source category on January 23, 2007, and codified it at 40 CFR part 63, subpart DDDDDD.[21] With the 2012 Final Rule, the EPA promulgated new major source standards for the PVC and Copolymer Production source category at 40 CFR part 63, subpart HHHHHHH and aligned

[9] *Id.* 7412(d)(3)(A)–(B).

[10] *Id.* 7412(d)(2).

[11] *See Ass'n of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013); *Nat. Resources Defense Council* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008).

[12] 42 U.S.C. 7412(d)(2), (6); *see Ass'n of Battery Recyclers,* 716 F.3d at 673–74.

[13] *See La. Env't Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020).

[14] 67 FR 45886 (July 10, 2002).

[15] *See Mossville Env't Action Now* v. *EPA,* 370 F.3d 1243 (D.C. Cir. 2004).

[16] 77 FR 22848 (April 17, 2012).

[17] 85 FR 71490 (November 9, 2020).

[18] Docket ID No. EPA–HQ–OAR–2002–0037.

[19] 67 FR 45886 (July 10, 2002).

[20] *See Mossville Env't Action Now,* 370 F.3d 1232.

[21] 72 FR 2930 (January 23, 2007).

the major and area source NESHAP by revising 40 CFR part 63, subpart DDDDDD.

The EPA received multiple petitions for reconsideration of the 2012 Final Rule.[22] To better assess the issues raised for reconsideration, the EPA issued CAA section 114 information collection requests (ICRs) to gather additional information on PVC and copolymer production process vents and wastewater. Additionally, industry stakeholders identified that the EPA used data from outside the PVC and Copolymer Production source category to establish the major and area source total non-vinyl chloride organic HAP process wastewater emission limits. The EPA agreed with industry stakeholders and promulgated the 2015 Final Rule to rescind the total non-vinyl chloride organic HAP process wastewater emission limits for new and existing area sources.[23] In addition, the D.C. Circuit resolved certain contested issues via *Mexichem Specialty Resins, Inc.* v. *EPA* [24] and *U.S. Sugar Corporation* v. *EPA,*[25] thus mooting the need for the EPA to act on requests to reconsider those aspects of the rule. To further address the remaining reconsideration issues and other technical and editorial corrections, the EPA issued the 2020 Proposal to reconsider certain aspects of the major source PVC NESHAP, including the major source total non-vinyl chloride organic HAP process wastewater emission limits.[26] This final action addresses the proposed reconsideration of the new major source total non-vinyl chloride organic HAP process wastewater emission limit. The EPA intends to address the remaining issues presented in the 2020 Proposal in a separate action.

The 2012 Final Rule regulates HAP emissions from PVC and copolymer production process units (PVCPU) that produce PVC and copolymers as their primary product(s). A PVCPU is the collection of process components assembled and connected by hard-piping or duct work used to process raw materials to manufacture PVC and/or PVC copolymers and includes, but is not limited to, polymerization reactors, resin stripping operations, resin blend tanks, resin centrifuges, resin dryers, resin product separators, recovery devices, reactant and raw material charge vessels and tanks, holding tanks, mixing and weighing tanks; finished resin product storage tanks or storage silos; finished resin product loading operations; and connected duct and piping. A PVCPU also includes pumps, compressors, agitators, PRDs, sampling connection systems, open-ended valves or lines, valves and connectors, and instrumentation systems.

PVC is the third most widely produced synthetic polymer in the world and comes in a variety of rigid and flexible forms depending on the application. Vinyl chloride monomer is the primary raw material in PVC and copolymer production, and manufacturers add other components to the polymerization reaction as necessary to modify the properties of the resulting resin to meet product specifications. As such, there are a wide variety of PVC and copolymer resin recipes, and each recipe will result in different HAP present in the PVCPU. There are multiple ways to produce PVC and copolymer resins including bulk polymerization, dispersion polymerization, and suspension polymerization.[27]

The HAP emission sources at PVC and copolymer production facilities include process vents, storage vessels, equipment leaks, heat exchange systems, wastewater, and stripped resin. While all PVC and copolymer production sources emit vinyl chloride, a PVCPU may also emit other HAP such as benzene, formaldehyde, and toluene depending on the specific resin recipes. The PVC NESHAP includes numeric emission limits for process vents, stripped resin, and wastewater; a mixture of numeric emission limits and work practices for storage vessels depending on the volume and pressure; and work practices for equipment leaks and heat exchange systems.

The EPA identified that this action may affect one potential new major source upon construction and startup. However, this potential new source has not yet commenced construction. While existing sources may reconstruct their PVCPU(s) and become subject to the new source standards, the EPA is unaware of any ongoing reconstruction efforts. As such, the EPA does not anticipate that this action will have any immediate cost or emissions impacts (see section IV of this preamble for additional details).

B. What changes did we propose for the PVC and Copolymer Production source category in our 2020 Proposal?

In 2020, the EPA proposed reconsideration of several aspects of the 2012 Final Rule to resolve reconsideration issues that the D.C. Circuit had not addressed.[28] These items included reconsideration of the process vent, stripped resin, and process wastewater emission limits; the process vent emission profile requirements; the pressure vessel provisions; the use of vapor balancing as a method of compliance; and the definition of the affected source. In addition, the EPA proposed technical corrections and clarifications to the alternative emission limit format for compliance with the stripped resin standards, the initial and continuous monitoring requirements for total non-vinyl chloride organic HAP emissions from stripped resin, the fixed and floating roof storage vessel provisions, the equipment leaks practices, and the closed vent system requirements.[29] The EPA also proposed to remove the affirmative defense provisions and to make certain editorial changes to correct errors within the major and area source PVC NESHAP.[30]

This action only addresses the proposed reconsideration of the new major source total non-vinyl chloride organic HAP process wastewater emission limit. On this issue, the EPA proposed to remove the major source total non-vinyl chloride organic HAP process wastewater emission limits and the associated testing, monitoring, recordkeeping, and reporting requirements. Relatedly, the EPA also proposed that vinyl chloride can serve as and is a reasonable surrogate for non-vinyl chloride organic HAP in PVC and copolymer production process wastewater because (1) vinyl chloride is the predominant HAP present in all PVC and copolymer production process wastewater streams, and (2) the best performing steam strippers with respect to vinyl chloride are also the most effective at removing non-vinyl chloride organic HAP. The EPA proposed that focusing the emission limit on vinyl chloride via surrogacy rather than on total non-vinyl chloride organic HAP ensured the Agency could identify the best performing wastewater strippers while still controlling non-vinyl chloride organic HAP air emissions. To that end, the EPA proposed that resin recipes determine the presence of other

[22] For the petitions for reconsideration, see Document ID Nos. EPA–HQ–OAR–2002–0037–0544, EPA–HQ–OAR–2002–0037–0568, EPA–HQ–OAR–2002–0037–0217, and EPA–HQ–OAR–2002–0037–0569.

[23] 40 FR 5938 (February 4, 2015).

[24] *See Mexichem Specialty Resins, Inc.* v. *EPA,* 787 F.3d 544 (D.C. Cir. 2015).

[25] *See U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 639 (D.C. Cir. 2016).

[26] 85 FR 71490 (November 9, 2020).

[27] The EPA defines ''bulk process,'' ''dispersion process,'' and ''suspension process'' at 40 CFR 63.12005.

[28] For additional details on the petitions for reconsideration and the reconsideration issues proposed, see 85 FR 71490 (November 9, 2020).

[29] 85 FR at 71499–505.

[30] 85 FR at 71505–508.

non-vinyl chloride organic HAP in the liquid phase exiting the steam stripper (*i.e.,* the stripper bottoms). The EPA proposed that the makeup of the stripper bottoms does not necessarily define the overall effectiveness of the steam stripper and stated that wastewater is more likely to retain the non-vinyl chloride organic HAP that steam stripping does not effectively treat. The EPA further proposed that biological treatment will effectively target and reduce those remaining HAP.

C. What stakeholder engagement took place following the 2020 Proposal?

In January 2026, Olin Corporation contacted the EPA to express concern with the new major source total non-vinyl chloride organic HAP process wastewater emission limit in the PVC NESHAP. A summary of this meeting and subsequent calls is in the docket for this action in the memorandum titled *Meetings and Calls Between U.S. EPA and the Olin Corporation.*

III. What is included in this final rule, and what is our rationale for our final decisions and amendments for the PVC and Copolymer Production source category?

A. What final rule amendments are we finalizing based on our reconsideration?

In this action, the EPA is finalizing aspects of the 2020 Proposal concerning the new major source total non-vinyl chloride organic HAP process wastewater emission limit. The EPA is still considering the relevant information and commenter feedback on other portions of the 2020 Proposal and intends to take action on those other portions at a later date.

B. New Major Source Total Non-Vinyl Chloride Organic HAP Process Wastewater Emission Limit

This section describes what the EPA proposed and what the Agency is finalizing, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. The EPA intends to address the remaining comments on the proposed rulemaking when the Agency takes final action on the other aspects of the reconsideration proposal at a later date.

1. What did we propose affecting the new major source wastewater emission limits for the PVC and Copolymer Production source category?

The EPA proposed to revise the approach to regulating new major source total non-vinyl chloride organic HAP process wastewater emissions. Specifically, the EPA proposed to eliminate the new major source total non-vinyl chloride organic HAP process wastewater emission limit; remove the associated testing, monitoring, recordkeeping, and reporting requirements; and establish vinyl chloride as a surrogate for non-vinyl chloride organic HAP in PVC and copolymer production process wastewater. This would mean that new major PVC and copolymer production sources would only have to meet the current new major source vinyl chloride process wastewater emission limit (*i.e.,* process wastewater streams must contain less than 0.28 parts per million by weight (ppmw) vinyl chloride). Refer to section II.B of this preamble, to section III.B of the 2020 Proposal,[31] and to the documents titled *Technical Analysis and Documentation to support EPA's Reconsideration of 40 CFR part 63 Subpart HHHHHHH National Emission Standards for the Polyvinyl Chloride and Copolymers (PVC) Production Source Category*[32] and *Analysis of HAP in PVC Process Wastewater*[33] in the docket for additional information on the proposed changes to the PVC and copolymer production process wastewater standards. At this time, the EPA is not taking final action on the proposal to eliminate the existing major source total non-vinyl chloride organic HAP process wastewater emission limit (110 ppmw total non-vinyl chloride organic HAP); to remove the associated testing, monitoring, recordkeeping, and reporting requirements; and to revise the vinyl chloride emission limits for both new and existing sources (0.28 ppmw and 6.8 ppmw vinyl chloride, respectively) (see section III.B.4 of this preamble for additional details).

How did the approach to the new major source process wastewater emission limit change for the PVC and Copolymer Production source category?

The EPA is finalizing the proposed removal of the total non-vinyl chloride organic HAP process wastewater emission limit and the associated testing, monitoring, recordkeeping, and reporting requirements for new major sources without change. In addition, the EPA is finalizing the proposed vinyl chloride surrogacy without changes.

3. What key comments did we receive on the new major source wastewater emission limits, and what are our responses?

This section provides summaries of and responses to key stakeholder comments regarding the EPA's proposed removal of the major source total non-vinyl chloride organic HAP process wastewater emission limits and the proposed vinyl chloride surrogacy determination.

Comment: Commenters both supported and opposed the EPA's proposal to remove the major source total non-vinyl chloride organic HAP process wastewater emission limits and establish vinyl chloride as a surrogate for non-vinyl chloride organic HAP for major and area sources.

At least two commenters said that vinyl chloride is a reasonable surrogate for non-vinyl chloride organic HAP because: (1) vinyl chloride and individual organic HAP are invariably present in process wastewater, (2) the wastewater strippers used to control vinyl chloride also control other HAP, and (3) wastewater strippers are the only means that PVC affected sources can use to control organic HAP from process wastewater. Other commenters said that they agree with the EPA's analysis of the other organic HAP being treated in the steam strippers.

A commenter cited *Mossville Environmental Action Now* v. *EPA* and said the EPA's proposal (and the accompanying preamble discussion) is responsive to the D.C. Circuit's request that the Agency ''properly explain its methodology for regulating [HAP] emitted in PVC production other than vinyl chloride by use of a surrogate.''[34] Another commenter cited *U.S. Sugar Corporation* v. *EPA*[35] and *National Lime Association* v. *EPA*[36] and said that the D.C. Circuit has held that the EPA may use a surrogate to regulate HAP under CAA section 112 where ''reasonable.'' The commenter added that the variety of resin recipes and products manufactured by PVC MACT affected sources, which require significant variations in ingredients, as well as process parameters, make the use of vinyl chloride as a surrogate the only workable solution. The commenter contended that different resin recipes use widely varying ingredients, with corresponding changes in the HAP profile. The commenter said that individual resin recipes normally

[31] 85 FR 71490 (November 9, 2020).

[32] Document ID No. EPA–HQ–OAR–2002–0037–0693.

[33] Document ID No. EPA–HQ–OAR–2002–0037–0681.

[34] *See Mossville Env't Action Now,* 370 F.3d at 1232.

[35] *See U.S. Sugar Corp.,* 830 F.3d 579.

[36] *See Nat'l Lime Ass'n* v. *EPA,* 233 F.3d at 637 (D.C. Cir. 2000).

include different reactor temperature profiles, reactor pressure, and other process changes, which impact the HAP emissions. The commenter further noted that the slurry stripper operating parameters are also usually different for different products, including residence time/slurry feed rate, steam feed rate, temperature at various column locations, pressure/vacuum, *etc.*

Commenters confirmed that effluent wastewater from virtually all PVCPUs is eventually routed to secondary treatment facilities with biological destruction capabilities for HAP. The commenters said steam stripping PVC process wastewater for vinyl chloride effectively reduces or removes all organic HAP according to the Fraction Removed (Fr) values in the Hazardous Organic NESHAP (HON).[37] However, a commenter noted an error in the memorandum titled *Analysis of HAP in PVC Process Wastewater* that they claimed could be used to undermine the effectiveness of using vinyl chloride as a surrogate.[38] The commenter said that the average concentration of ethylene glycol in stripped wastewater across the industry as specified in the memorandum (*i.e.,* 9,150 ppmw) is skewed by data from a single facility that is no longer in operation. The commenter said that of 642 samples analyzed, ethylene glycol was found in only 48, and that the concentration of 46 samples ranged from 0.6 to 19.7 ppmw yielding an average ethylene glycol concentration of 3.7 ppm. The commenter added that the high average ethylene glycol concentration is due to the inclusion of two samples, measuring 50,400 ppmw on March 25, 2013, and 64,000 ppmw on April 7, 2013, which were provided by the CertainTeed facility (Westlake, Louisiana) as part of its response to the EPA's November 8, 2012, ICR for wastewater. The commenter said that CertainTeed was the last facility to produce PVC resin using a bulk process, which uses significant amounts of ethylene glycol as a coating agent to concentrate the bulk resins and prevent buildup inside the resin autoclave. The commenter said that ethylene glycol was steam stripped out of the resin in situ in the autoclave and eventually collected in the facility's wastewater. However, the commenter was unsure whether CertainTeed used steam stripping to control its wastewater. The commenter contended that these levels of ethylene glycol are unlikely to reoccur because concentrators and autoclaves are not used by suspension, dispersion, or copolymer resin producers.

Another commenter said that variations in non-vinyl chloride monomer HAP concentrations in the ICR wastewater data that were used to develop emission limitations are attributable to varying resin formulations among producers. Thus, some producer formulations may include a HAP that another producer does not use and vice versa. The commenter also said that various starting concentrations of the same HAP will affect final concentrations. The commenter said that using vinyl chloride monomer as a common HAP (*i.e.,* as a surrogate) allows the EPA to identify the most efficient stripping operations providing the greatest pollutant reductions for all HAP present, and that the surrogacy greatly simplifies sample collection and analysis requirements, data collection, and reporting burdens while still requiring emission reductions equivalent to the best performers.

Another commenter argued that the EPA's failure to set emission limits for HAP other than vinyl chloride is unlawful and that the Agency's claim that vinyl chloride is a surrogate for the other HAP emitted from PVC plants' process wastewater is unlawful. The commenter cited *National Lime Association* v. *EPA* [39] and *Mossville Environmental Action Now* v. *EPA* [40] and argued that the CAA unambiguously requires the EPA's emission standards for a source category to include limits for each HAP that the source category emits. The commenter asserted that under binding D.C. Circuit precedent, the EPA may use standards for surrogates to meet this obligation only if the Agency's limits for the surrogate reflect ''the average level achieved by the best performers with regard to [the target] HAPs.'' [41] The commenter quoted *Sierra Club* v. *EPA,* stating ''if EPA looks only to [the surrogate], but HAPs are reduced [in another] way that does not reduce [the surrogate], the best achieving sources, and what they can achieve with respect to HAPs, might not be properly identified.'' [42]

The commenter contended that, considering this D.C. Circuit precedent, a valid surrogacy relationship between vinyl chloride and total non-vinyl chloride organic HAP does not exist.

The commenter asserted that the EPA does not even attempt to show that its vinyl chloride standards will reduce emissions of such other HAP to ''the average level achieved by the best performers with regard to those HAP.'' The commenter said that the D.C. Circuit has made plain that the best performers are the sources with the lowest emissions.[43] The commenter said that if the EPA could designate the sources that reduce their emissions most through the use of a control technology, the Agency could ignore the many other factors—specifically identified in CAA section 112(d)(2)—that affect sources' actual emission levels, such as the use of cleaner raw materials and fuels and cleaner processes. The commenter said that the D.C. Circuit has explained repeatedly that it is not sufficient for the EPA to only consider sources using MACT controls if factors other than MACT technology influence a source's performance.[44] The commenter said that the D.C. Circuit has stated that the EPA is not required to use the MACT approach and, if it is insufficient to adequately consider the factors influencing source performance, the Agency must devise a different approach.[45]

The commenter said that the EPA made clear in the proposal preamble that emission levels of the other HAP (for which the Agency claims vinyl chloride is a surrogate) are actually determined by at least one factor that is not correlated to vinyl chloride emissions: the various ''resin recipe slates'' that different plants use. The commenter asserted that the record shows that 33 non-vinyl chloride organic HAP are emitted from PVC plants' wastewater, that the top performers ''with regard to'' some of these HAP are achieving emission levels of zero, and that the EPA admits that the effect of different plants' resin recipes on the emissions of HAP other than vinyl chloride is so significant that the sources the Agency has identified as best performers for vinyl chloride—the ones with the best performing steam

[37] *See* table 9 to 40 CFR part 63, subpart G.

[38] *See* Document ID No. EPA–HQ–OAR–2002–0037–0681.

[39] *See Nat'l Lime Ass'n,* 233 F.3d at 633–634.

[40] *See Mossville Environmental Action Now,* 370 F.3d at 1243.

[41] The commenter cited *U.S. Sugar Corp.,* 830 F.3d 579, 628.

[42] *See Sierra Club* v. *EPA,* 353 F.3d 976, 985 (D.C. Cir. 2004).

[43] The commenter cited *Sierra Club* v. *EPA,* 479 F.3d 875, 880 (D.C. Cir. 2007) (section ''7412(d)(3) requires floors based on the emission level actually achieved by the best performers (those with the lowest emission levels)'' (citing *Cement Kiln Recycling Coalition* v. *EPA,* 255 F.3d 855, 861 (D.C. Cir. 2001))).

[44] *Sierra Club,* 479 F.3d at 882 (quoting *Cement Kiln Recycling Coalition,* 255 F.3d at 864–65 (D.C. Cir. 2001)).

[45] *Sierra Club,* 479 F.3d at 882.

strippers—are not the best performers for other organic HAP.[46]

Response: The EPA acknowledges the comments submitted in support of and in opposition to the Agency's proposal to remove the total non-vinyl chloride organic HAP process wastewater emission limits from the major source PVC NESHAP by establishing vinyl chloride as a surrogate for non-vinyl chloride organic HAP. After considering these comments, the EPA is finalizing the removal of the new major source total non-vinyl chloride organic HAP process wastewater emission limit and the proposed surrogacy without changes.

In response to the commenter's concern regarding the average ethylene glycol concentration identified in table 2 of the document titled *Analysis of HAP in PVC Process Wastewater,* the EPA agrees that the two ethylene glycol data points (*i.e.,* concentrations of 50,400 ppm and 64,000 ppm) from the CertainTeed facility skew the average concentration.[47] However, this does not change the EPA's conclusions regarding vinyl chloride's ability to act as a surrogate for non-vinyl chloride organic HAP in PVC and copolymer production process wastewater. The data in table 2 in the document titled *Analysis of HAP in PVC Process Wastewater* demonstrate that steam stripping reduces emissions of the majority of organic HAP in PVC and copolymer production to levels similar to or below that of vinyl chloride. However, it is not necessary to reduce the ethylene glycol concentration below that of vinyl chloride for vinyl chloride to be a valid surrogate, as the EPA explains later in this comment response.

Responding to the commenter's arguments regarding the lawfulness and validity of the proposed (and final) surrogacy, the EPA disagrees that it is unlawful for the Agency to use vinyl chloride as a surrogate for non-vinyl chloride organic HAP in PVC and copolymer production process wastewater.

When considering the surrogacy relationship between particulate matter (PM) and metal HAP, the D.C. Circuit applied three general criteria that clearly demonstrate that a surrogate is reasonable: (1) ''HAP metals are invariably present in . . . PM;'' (2) ''PM control technology indiscriminately captures HAP metals along with other particulates;'' and (3) ''PM control is the only means by which facilities 'achieve' reductions in HAP metal emissions.'' [48] In that situation, PM is the surrogate for metal HAP. Applying these criteria to PVC and copolymer production process wastewater, the EPA interprets similar criteria to be: (1) both non-vinyl chloride organic HAP and vinyl chloride must be present in the wastewater streams; (2) the vinyl chloride control technology must indiscriminately capture both non-vinyl chloride organic HAP and vinyl chloride; and (3) steam stripping is the only means by which affected sources achieve reductions in non-vinyl chloride organic HAP emissions. The EPA notes that other commenters who expressed support for the proposed (and final) surrogacy identified the same criteria.

With respect to the first criterion, the EPA explained in the 2020 Proposal that both vinyl chloride and non-vinyl chloride HAP are invariably present in PVC and copolymer production process wastewater streams.[49] Additionally, the wastewater analyses show that vinyl chloride is present in all of the analyzed wastewater streams (as are acetaldehyde and formaldehyde), yet many other non-vinyl chloride organic HAP (*e.g.,* methanol, chloroform, benzene, hexane) are not.[50] [51] As other commenters noted, vinyl chloride monomer is the primary feedstock for PVC and copolymer resin manufacturing, and the resin recipes dictate the presence of other non-vinyl chloride organic HAP in the resulting process wastewater. When a source does not identify the presence of a particular organic HAP in a wastewater stream, it does not necessarily indicate that the source achieved complete control of the given organic HAP. Instead, it more likely indicates that the resin recipe did not call for that specific HAP, and it was never present in the process. This is particularly relevant considering that steam stripping will remove a similar fraction of HAP from the wastewater for 26 of the 33 HAP identified in table 1 of the wastewater analysis, as the EPA explains later in this comment response.[52] In addition, the EPA notes that while the Agency has the authority to subcategorize process wastewater based on resin type to establish total non-vinyl chloride organic HAP emission limits to address these differences in HAP composition (as the EPA has done for the stripped resin emission limits for the various PVC production types), a single facility may have up to 100 different resin recipes, all of which may require different HAP in different concentrations.[53] The EPA does not have sufficient information to subcategorize by resin type, nor would it be practical to do so given the burden of monitoring for dozens of different emission limits, all applying at different times depending on the batch. Using vinyl chloride as a surrogate will address those concerns by allowing facilities to monitor for a single representative HAP to demonstrate adequate control.

The EPA also notes that it is common for chemical sector rulemakings to have more general standards for streams potentially containing a wide variety of HAP (*e.g.,* the process vent and process wastewater standards in the HON and in the Miscellaneous Organic Chemical Manufacturing NESHAP (MON)).[54] The EPA uses total organic carbon as a surrogate for individual organic HAP in those rules because there is no guarantee that any one HAP will be present in all affected process streams as those rules affect many different manufacturing processes. A similar situation applies for the PVC NESHAP; however, vinyl chloride is the primary feedstock common to all PVC and copolymer production operations, and all process wastewater streams contain vinyl chloride. Thus, while the presence of other organic HAP may vary between sources, measuring control via vinyl chloride provides the best indication of the level of control despite the potential differences in HAP composition between sources.

Addressing the second criterion, regardless of which non-vinyl chloride organic HAP are in a process wastewater stream, steam stripping (the MACT control technology) will control the emissions. The EPA has long held that steam stripping will indiscriminately control all organic HAP, as stated in the 2000 proposal [55] and the 2012 Final Rule [56] with respect to the stripped resin and wastewater standards, respectively, and in the document titled *Analysis of HAP in PVC Process Wastewater,*[57] which is in the docket. The EPA has considered steam stripping as a primary control option for many different chemical sector rulemakings including the HON, the MON, the Polyether

[46] The commenter cited EPA Document ID No. EPA–HQ–OAR–2002–0037–0681 and *U.S. Sugar,* 830 F.3d 628.

[47] *See* Document ID No. EPA–HQ–OAR–2002–0037–0681.

[48] *See Sierra Club,* 353 F.3d at 985 (quoting *Nat'l Lime Ass'n,* 233 F.3d at 639).

[49] 85 FR 71490 (November 9, 2020).

[50] *See* Document ID No. EPA–HQ–OAR–2002–0037–0693.

[51] *See* table 1 in Document ID No. EPA–HQ–OAR–2002–0037–0681.

[52] *Id.*

[53] *See* 77 FR 22848, 22867 (April 17, 2012).

[54] 40 CFR 63.113 and 63.138 in the HON; 40 CFR 63.2455 and 63.2485 in the MON.

[55] 65 FR 76958, 76961 (December 8, 2000).

[56] 77 FR 22848, 22867 (April 17, 2012).

[57] Document ID No. EPA–HQ–OAR–2002–0037–0681.

Polyols Productions NESHAP, the Ethylene Production NESHAP, and the Benzene Waste Operations NESHAP, all of which affect sources with differing emission profiles.[58] As such, the EPA has clearly demonstrated that steam stripping will indiscriminately control both vinyl chloride and non-vinyl chloride organic HAP emissions.

Addressing the third criterion, the EPA is unaware of any other technology that will control organic HAP emissions from PVC and copolymer production process wastewater to the same extent as steam stripping. While many, if not all, PVC and copolymer production sources send their stripped wastewater to a secondary biological treatment unit (as confirmed by two commenters), biological treatment does not effectively reduce all organic HAP in PVC and copolymer production process wastewater. Table 3 of the document titled *Analysis of HAP in PVC Process Wastewater* shows the F_r and Fraction Emitted (F_e) values for the HAP in PVC and copolymer production wastewater. The EPA expects that a design steam stripper will remove a fraction of HAP equal to the F_r value from process wastewater streams while the Agency also expects that a wastewater process will emit a fraction of HAP equal to the F_e value as a result of downstream treatment (*i.e.,* biotreatment) and collection processes.[59] The F_e values vary significantly and include two HAP (2,2,4-trimethylpentane and hexane) with F_e values of 1.00. F_e values of 1.00 mean that all of the 2,2,4-trimethylpentane and hexane in the process will be emitted from the biotreatment and collection processes if the source does not control those emissions another way. Therefore, it is not possible for PVC and copolymer production sources to rely solely on biotreatment to control all HAP emissions from process wastewater.

By comparison, 26 of the 33 non-vinyl chloride organic HAP have F_r values and of those, 23 have the same F_r value as vinyl chloride, 0.99, and none have F_r values of zero. For the remaining seven HAP without F_r values, the D.C. Circuit in *National Lime Association* v. *EPA* established that if ''HAP metals are invariably present in cement kiln PM, then even if the ratio of metals to PM is small and variable, or simply unknown, PM is a reasonable surrogate for metals—assuming . . . that PM control technology indiscriminately captures HAP metals along with other particulates.'' [60] In context of the present rulemaking, the EPA applies this rationale to find that vinyl chloride is a reasonable surrogate, even though steam stripping will not control all of the non-vinyl chloride HAP equally as well as vinyl chloride (potentially including those HAP for which the EPA does not have an F_r value), because the control technology (*i.e.,* steam stripping) indiscriminately targets all organic HAP. The EPA notes that non-vinyl chloride organic HAP that are not as well controlled by steam stripping also tend to have low F_e values, indicating that those organic HAP are more likely to remain in the wastewater than volatilize into air emissions.

In addition, the EPA notes that PVC and copolymer production process wastewater enters the biotreatment unit after a steam stripper removes the majority of HAP. By the time the wastewater reaches the biotreatment units, a design steam stripper will have controlled 99 percent of emissions from 24 of the 34 organic HAP in table 1 of the document titled *Analysis of HAP in PVC Process Wastewater.* Although the EPA acknowledges that biotreatment will reduce emissions for certain non-vinyl chloride organic HAP, the Agency maintains that steam stripping is the only technology achieving emission reductions of all organic HAP emitted by PVC and copolymer production wastewater.

Lastly, addressing the commenter's assertion that the EPA failed to demonstrate that the finalized surrogacy will achieve emission reductions reflective of the best performing sources with respect to non-vinyl chloride organic HAP, the F_r and F_e values do not depend on the quantities of the treated HAP. As described in the document titled *Analysis of HAP in PVC Process Wastewater* in the docket for this action, a design steam stripper will reduce organic HAP in the wastewater by an amount equal to the F_r values.[61] So, as sources remove vinyl chloride with a control efficiency equal to the F_r value, they will also be reducing other non-vinyl chloride organic HAP in the wastewater by an amount equal to the F_r values for those HAP (as steam stripping indiscriminately controls all organic HAP). This means that the effectiveness of stream stripping for 23 of the 33 non-vinyl chloride HAP will match the effectiveness of the control technology for vinyl chloride. For the remaining non-vinyl chloride organic HAP, while steam stripping will continue to remove the HAP in quantities approaching the F_r value, the amount of HAP remaining in the wastewater will be greater than if a similar amount of vinyl chloride entered the steam stripper. As such, an elevated concentration of hard-to-strip HAP in a wastewater stream does not necessarily imply the overall performance of the steam stripper is worse than the performance of a steam stripper controlling streams containing similar levels of vinyl chloride (or any of the other 23 HAP with F_r values equal to vinyl chloride's F_r value) but not containing those hard-to-strip HAP. This is especially true because the resin recipes do not include all HAP in each batch of polymer, as discussed previously. Nonetheless, all PVC and copolymer production process wastewater streams will contain vinyl chloride. As such, sources that demonstrate the greatest reductions in vinyl chloride represent those sources with the most effective steam stripping systems. Thus, the standards demonstrate total non-vinyl chloride emission reductions reflective of the best performing sources, so long as the EPA bases the vinyl chloride emission limits on the best performing sources, as the CAA requires.

The EPA notes that while the Agency is not finalizing the proposed changes to the major source vinyl chloride emission limits for PVC and copolymer production process wastewater at this time, the current vinyl chloride emission limits (which have been in place for over a decade) consider the best performing sources with respect to the 2012 final rule. The EPA intends to review the proposed vinyl chloride limits and relevant comments in taking final action on the other reconsideration issues. The EPA will review and determine at that time if it is necessary to revise the standards.

4. What is the rationale for our final approach and final decisions for the new source wastewater emission limits?

The EPA is finalizing the revisions to the approach to regulating new major source total non-vinyl chloride organic HAP process wastewater emissions without change. Specifically, the EPA is finalizing the removal of the total non-vinyl chloride organic HAP process wastewater emission limit for new major PVC and copolymer production sources; the associated testing, monitoring, recordkeeping, and

[58] 40 CFR part 63, subparts F, G, and H; FFFF; PPP; and YY and 40 CFR part 61, subpart FF, respectively.

[59] The EPA developed a ''design steam stripper'' with certain operational and design criteria to assess the efficiency of steam stripping (*i.e.,* the F_r value) as a control option for process wastewater from SOCMI operations subject to the HON. 40 CFR 63.138(d) details the criteria. See document ID Nos. EPA–HQ–OAR–2002–0037–0666 and EPA–HQ–OAR–2002–0037–0664.

[60] *See Nat'l Lime Ass'n,* 233 F.3d at 639.

[61] *See* Document ID No. EPA–HQ–OAR–2002–0037–0681.

reporting requirements; and that vinyl chloride can serve as a surrogate for non-vinyl chloride organic HAP in PVC and copolymer production process wastewater, without change.

This action focuses on the removal of a regulatory barrier for new major source PVC and copolymer production manufacturers. The EPA is not taking final action on the proposed removal of the existing major source total non-vinyl chloride organic HAP process wastewater emission limit at this time. Although the EPA believes that the current new major source vinyl chloride wastewater emission limit ensures sufficient control of non-vinyl chloride organic HAP emissions, the current existing major source vinyl chloride emission limit for PVC and copolymer production process wastewater is 24 times larger than the equivalent emission limit for new major sources (6.8 ppmw vinyl chloride for existing major sources versus 0.28 ppmw vinyl chloride for new major sources). With vinyl chloride acting as a surrogate, this corresponds to potentially 24 times more non-vinyl chloride organic HAP emissions from existing major sources than from new major sources. Although the total existing source non-vinyl chloride organic HAP concentration in the process wastewater must remain below 110 ppmw, the non-vinyl chloride organic HAP emission limit is 16 times greater than the vinyl chloride emission limit. Given that steam stripping removes a similar fraction of HAP for 26 of the 33 non-vinyl chloride organic HAP in PVC process wastewater, if sources are controlling vinyl chloride to just below the existing source emission limit (*i.e.,* 6.8 ppmw), and there are similar amounts of vinyl chloride as other organic HAP in the process wastewater, then wastewater streams at existing major sources could contain 16 organic HAP with concentrations up to 24 times greater than equivalent wastewater streams at new major sources. As such, it is appropriate for existing major sources to continue to test, monitor, and report total non-vinyl chloride organic HAP concentrations in process wastewater and to comply with the associated emission limit at this time. The EPA notes that existing sources have complied with the current existing source vinyl chloride and total non-vinyl chloride organic HAP process wastewater emission limits for over a decade.

Similarly, the EPA is not taking final action on removing the non-vinyl chloride organic HAP process wastewater monitoring requirements for area source PVC and copolymer production manufacturers. The area source vinyl chloride process wastewater emission limits are 7.5 times greater than the new major source vinyl chloride process wastewater emission limit (2.1 ppmw vinyl chloride for new and existing area sources versus 0.28 ppmw for a new major source). This corresponds to potentially 7.5 times more emissions per HAP from area source process wastewater as compared to similar streams at a new major source. In addition, although the EPA rescinded the total non-vinyl chloride organic HAP process wastewater emission limits with the 2015 Final Rule, the NESHAP has required area sources to monitor and report total non-vinyl chloride organic HAP concentrations in process wastewater for more than a decade.[62] As sources have continued the monitoring without major adverse effect, the EPA anticipates continuing to test, monitor, and report total non-vinyl chloride organic HAP concentrations will not be burdensome. Therefore, the EPA believes it is appropriate for area PVC and copolymer production sources to continue monitoring and reporting total non-vinyl chloride organic HAP concentrations at this time.

The EPA is also not taking final action on the proposed revisions to the major source vinyl chloride process wastewater emission limits at this time. The EPA continues to evaluate the comments on the 2020 Proposal and the Agency's identification of the best performing sources with respect to process wastewater. The EPA intends to make final determinations on whether it is appropriate to remove the total non-vinyl chloride organic HAP process wastewater emission limit for existing major sources, revise the vinyl chloride emission limits for new and existing major sources, and remove the associated total non-vinyl chloride organic HAP testing and monitoring requirements in addressing the other aspects of the proposed reconsideration at a later date.

C. What are the effective and compliance dates of the standards?

CAA section 112(i) and 5 United States Code (U.S.C.) 801(3) provide that for the finalized requirements, all new affected sources that commenced construction after May 20, 2011, must comply with all requirements under CAA section 112(d)(2), (3), (6), and 112(h) by November 9, 2026, or upon startup, whichever is later.

[62] 80 FR 5938 (February 4, 2015).

IV. Summary of Environmental and Economic Impacts

A. What are the affected sources?

While no new PVC sources have become operational since the 2012 Final Rule, the EPA is aware that an industry stakeholder has expressed interest in potentially developing, constructing, and operating a new PVC manufacturing facility within the next decade. If constructed, this final rule could impact such a new facility. The EPA approximated the impacts of reducing the testing, monitoring, recordkeeping, and reporting requirements in the rule to provide a conservative estimate of this action's cost-savings on a per facility basis (see section IV.C of this preamble for additional details).

B. What are the air quality impacts?

The EPA does not expect any air quality impacts as a result of this rule, as there will be no change to the total emissions from the PVC and Copolymer Production source category. This action does not affect existing major PVC and copolymer production sources, and so there will be no emission changes from currently operating facilities. While this action will affect new major sources (*i.e.,* sources that commenced construction after May 20, 2011), vinyl chloride will act as a surrogate for non-vinyl chloride organic HAP, and the EPA is not revising the new major source vinyl chloride emission limit. In addition, the EPA is unaware of any new sources currently subject to the rule. As such, there will be no changes to the potential vinyl chloride and non-vinyl chloride organic HAP emissions if a new source becomes operational.

The EPA notes that if stakeholders construct a new PVC and copolymer production facility and it becomes operational, the sector's HAP emissions will increase. However, the EPA cannot speculate on the potential impacts of emissions that may never occur. As such, the EPA does not anticipate any immediate impacts to human health as a consequence of this final rule. If stakeholders construct a new facility and it becomes operational, the EPA will consider the associated emissions when conducting future rulemakings.

C. What are the costs?

The EPA does not anticipate any operational changes for existing PVC and copolymer manufacturing facilities to accommodate the revisions in this final action. As such, existing sources will incur no costs as a result of this final action. In addition, as the EPA is unaware of any new sources currently subject to the rule, new sources will also

incur no cost as a result of this final action. Thus, this action will have no immediate cost impacts.

However, if a new PVC and copolymer production facility becomes operational, the EPA estimates owners and operators would save approximately $2,900 in initial capital/startup costs as well as an estimated $30,000 in annual costs (both in 2025 dollars) compared to the facility's costs if it became operational after May 20, 2011, but prior to this final action due to the reductions in the non-vinyl chloride organic HAP testing, monitoring, recordkeeping, and reporting requirements the Agency is finalizing with this action.

The EPA calculated these cost savings using information from the ICR supporting statement, assuming one respondent (see section V.C of this preamble for additional details).[63] The EPA estimates that the costs for initial total non-vinyl chloride organic HAP testing for stripped wastewater and uncontrolled wastewater are $820 and $2,100, respectively. A new major source subject to the requirements in this final rule would no longer incur those costs. In addition, a new major source would no longer need to conduct monthly total non-vinyl chloride organic HAP monitoring for treated wastewater streams (resulting in $9,800 saved annually) or annual monitoring for untreated wastewater streams ($2,100 saved annually).

Also, new major sources subject to the requirements in this final rule would save on labor costs. The EPA estimated that sampling would require approximately 4 hours per sample and two samples per wastewater stream. Using labor rates from the United States Department of Labor, Bureau of Labor Statistics and inflating them by 110 percent to account for varying industry wage rates and the additional overhead business costs, the EPA estimated that new major sources would save approximately $18,000 in labor costs per year while incurring a one-time cost of $2,000 to read and understand this final action.[64] Finally, the EPA estimated that new major sources would save approximately $1,900 per year in recordkeeping costs due to no longer having to keep, retain, or report total non-vinyl chloride organic HAP concentrations in process wastewater.

D. What are the benefits?

This action removes a regulatory barrier affecting the potential construction of new major source PVC and copolymer production manufacturing facilities. By removing this barrier, the EPA is addressing feasibility concerns and reducing overall regulatory burden by simplifying the NESHAP without increasing the potential total non-vinyl chloride organic HAP emissions from process wastewater from a newly constructed PVC and copolymer production plant.

E. What are the economic impacts?

The EPA anticipates no emission or air quality impacts and no qualitative or quantitative changes in health benefits. Therefore, there are no estimated monetized health or emissions impacts, and the potential costs detailed in section IV.C of this preamble are the only potential economic impacts of this final action.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders is available at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 deregulatory action. For regulatory accounting purposes, this action will have no immediate cost impacts as it affects no currently operating sources. However, if a new source becomes operational, the EPA anticipates this action will save the source approximately $2,900 in capital/startup costs and $30,000 in annual costs. Details on the potential cost savings of this final rule can be found in EPA's analysis of the potential costs and benefits associated with this action (see section IV of this preamble).

C. Paperwork Reduction Act (PRA)

The EPA submitted the information collection activities in this rule to OMB for approval under the Paperwork Reduction Act (PRA). OMB has assigned EPA ICR number 2432.08 to the ICR document that the EPA prepared. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The EPA is finalizing amendments to the PVC NESHAP to remove the new major source total non-vinyl chloride organic HAP process wastewater emission limit and the associated testing and monitoring requirements from the PVC NESHAP. The EPA is also finalizing that vinyl chloride can act as a surrogate for non-vinyl chloride organic HAP in PVC and copolymer production process wastewater. The EPA is no longer collecting this information as it is no longer necessary to ensure compliance with the PVC NESHAP. The EPA notes that the Agency does not anticipate that any new sources will become operational in the next 3 years. As such, there will be no respondents impacted by this ICR, resulting in no cost savings at this time.

Respondents/affected entities: Owners or operators of PVC and PVC copolymer production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart HHHHHHH).

Estimated number of respondents: 0.

Frequency of response: Initially and semiannually.

Total estimated burden: 0 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Average annual cost is $0 per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities in this final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA). This action will not impose any requirements on small entities, as this is a deregulatory action affecting only new major sources.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The EPA estimates that

[63] *See* Docket ID No. EPA–HQ–OAR–2002–0037.

[64] *https://www.bls.gov/oes/2025/may/oessrci.htm.*

costs involved in this action will not exceed $191 million in 2025 dollars ($100 million in 1995 dollars adjusted for inflation using the GDP implicit price deflator) or more in any one year.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It 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.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. None of the facilities that the EPA has identified as being affected by this action are owned or operated by Tribal governments or located within Tribal lands. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action does not affect existing sources. While this action does affect new sources as defined in the 2012 Final Rule (sources that commenced construction after May 20, 2011), the EPA is not aware of any such currently operating source. If a new source were to come online, this action would not affect the process wastewater emissions, as the new source would still need to meet the vinyl chloride emission limit and the control technology (*i.e.,* steam stripping) controls all HAP indiscriminately. With no immediate emissions impacts, this action will not disproportionately affect children's health.

The EPA's Policy on Children's Health applies to this action. The EPA did not conduct an analysis of children's environmental health for this final action as there are no immediate emissions impacts. Thus, the EPA expects no changes in HAP exposure to infants and children as a result of this action.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Congressional Review Act (CRA)

This action is subject to the Congressional Review Act (CRA), and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Lee Zeldin,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 63 of title 40, chapter I, of the Code of Federal Regulations as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart HHHHHHH—National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production

■ 2. Amend § 63.11875 by revising paragraphs (b) and (c) and adding paragraph (e) to read as follows:

§ 63.11875 When must I comply with this subpart?

* * * * *

(b) Except as specified in paragraph (e) of this section, if you start up a new affected source on or before April 17, 2012, you must achieve compliance with the provisions of this subpart no later than April 17, 2012. On or after April 17, 2012, any such new affected source is not subject to the provisions of 40 CFR part 61, subpart F.

(c) Except as specified in paragraph (e) of this section, if you start up a new affected source after April 17, 2012, you must achieve compliance with the provisions of this subpart upon startup of your affected source. Upon startup, any such new affected source is not subject to the provisions of 40 CFR part 61, subpart F.

* * * * *

(e) All new affected sources that commenced construction or reconstruction after May 20, 2011, are subject to the provisions in § 63.11880(d) beginning on November 9, 2026, or initial startup, whichever is later.

■ 3. Amend § 63.11880 by adding paragraph (d) to read as follows:

§ 63.11880 What emission limits, operating limits and standards must I meet?

* * * * *

(d) Beginning no later than the compliance dates specified in § 63.11875(e), new affected sources, as defined in § 63.11870, are no longer required to comply with item 4.b of table 2 to this subpart for process wastewater and the associated total non-vinyl chloride organic HAP testing, monitoring, recordkeeping, and reporting requirements specified in §§ 63.11965(a) through (d), 63.11970(a) and (b), and 63.11975(b) and (c).

■ 4. Amend § 63.11900 by revising paragraphs (c) and (d) to read as follows:

§ 63.11900 By what date must I conduct initial performance testing and monitoring, establish any applicable operating limits and demonstrate initial compliance with my emission limits and work practice standards?

* * * * *

(c) For new or reconstructed affected sources, you must establish any applicable operating limits required in § 63.11880, and demonstrate initial compliance with the emission limits and standards specified in tables 2 and 3 to this subpart, as applicable, no later than 180 days after the compliance date specified in § 63.11875 or within 180 days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

(d) For new and reconstructed affected sources, you must demonstrate initial compliance with any applicable work practice standards required in § 63.11880 no later than the compliance date specified in § 63.11875 and according to the applicable provisions in § 63.7(a)(2).

* * * * *

■ 5. Revise § 63.11965 to read as follows:

§ 63.11965 What are my general compliance requirements for wastewater?

(a) *General requirements for process wastewater.* Except as specified in § 63.11880(d), the concentration of vinyl chloride and total non-vinyl chloride organic HAP in each process wastewater stream containing greater than the limits specified in table 1 or 2 to this subpart, measured immediately as it leaves a piece of process equipment and before being mixed with any other process wastewater stream, must be reduced to the limits specified in table 1 or 2 to this subpart. The applicable limits in table 1 or 2 to this subpart must be met before the process wastewater stream is mixed with any other process wastewater stream containing vinyl chloride or total non-vinyl chloride organic HAP concentrations less than the applicable limits specified in table 1 or 2 to this subpart, before being exposed to the atmosphere, and before being discharged from the affected source.

(b) *Initial determination of process wastewater streams that need to be treated.* Except as specified in § 63.11880(d), you must determine which process wastewater streams require treatment as specified in paragraphs (b)(1) and (2) of this section and meet the requirements of paragraphs (c) and (d) of this section.

(1) You must collect process wastewater samples as specified in paragraphs (b)(1)(i) and (ii) of this section.

(i) For treated process wastewater streams, you must collect process wastewater samples at the outlet of the treatment process and before the process wastewater stream is mixed with any other process wastewater stream containing vinyl chloride or total non-vinyl chloride organic HAP concentrations less than the applicable limits specified in table 1 or 2 to this subpart, before being exposed to the atmosphere, and before being discharged from the affected source.

(ii) For untreated process wastewater streams, you must collect process wastewater samples at the location immediately as the stream leaves a piece of process equipment, before being mixed with any other process stream or process wastewater stream, before being exposed to the atmosphere, and before being discharged from the affected source.

(2) You must measure the concentration of vinyl chloride and total non-vinyl chloride organic HAP using the test methods and procedures specified in § 63.11980.

(c) *Requirements for process wastewater streams that must be treated.* Except as specified in § 63.11880(d), you must treat each process wastewater stream that has a vinyl chloride or total non-vinyl chloride organic HAP concentration equal to or greater than the applicable emission limits specified in table 1 or 2 to this subpart as determined pursuant to paragraph (b) of this section, to reduce the concentration below the applicable emission limits specified in table 1 or 2 to this subpart. You must route wastewater streams through hard-piping to the treatment process and route the vent stream from the treatment process to a closed vent system and control device meeting the requirements of §§ 63.11925 through 63.11950. You must also meet the initial and continuous compliance requirements specified in §§ 63.11970(a) and 63.11975(a) and (b).

(d) *Requirements for process wastewater streams that do not need to be treated.* Except as specified in § 63.11880(d), for each process wastewater stream that has a vinyl chloride or total non-vinyl chloride organic HAP concentration less than the applicable emission limits specified in table 1 or 2 to this subpart as determined pursuant to paragraph (b) of this section, you must meet the initial and continuous compliance requirements specified in §§ 63.11970(b) and 63.11975(c).

(e) *Maintenance wastewater.* You must comply with the requirements specified in § 63.105.

(f) *Determination of total non-vinyl chloride organic HAP.* If you are subject to the emission limits specified in table 1 or 2 to this subpart, then you must develop a facility-specific list of HAP that are expected to be present in each process wastewater stream at your PVCPU and comply with paragraph (f)(1) of this section. This list must be continuously updated and must be available for inspection by the Administrator. This list must include the identification of each HAP expected to be present in each process wastewater stream, and the CAS number for each HAP.

(1) For the purposes of demonstrating initial and continuous compliance as required in §§ 63.11970 and 63.11975, you must meet the requirements specified in paragraphs (f)(1)(i) and (ii) of this section.

(i) You must analyze each process wastewater sample for all table 10 HAP using the test methods specified in § 63.11980(a)(2) and (3).

(ii) You must also analyze each process wastewater sample for any HAP that are not table 10 HAP but are expected to be present in that sample based on your facility-specific list of HAP using the appropriate test method specified in § 63.11980(a)(2).

(2) [Reserved]

■ 6. Revise § 63.11970 to read as follows:

§ 63.11970 What are my initial compliance requirements for process wastewater?

(a) *Demonstration of initial compliance for process wastewater streams that must be treated.* Except as specified in § 63.11880(d), for each process wastewater stream that must be treated as specified in § 63.11965(b) and (c), you must conduct an initial performance test for the wastewater treatment process, measuring the concentration of vinyl chloride and total non-vinyl chloride organic HAP in the wastewater stream at the outlet of the wastewater treatment process before the wastewater is exposed to the atmosphere, mixed with any other process stream, and before being discharged from the affected facility, using the test method and procedures specified in § 63.11980(a).

(b) *Demonstration of initial compliance for process wastewater streams that are not required to be treated.* Except as specified in § 63.11880(d), for each process wastewater stream that has a vinyl chloride or total non-vinyl chloride organic HAP concentration less than the applicable emission limits specified in table 1 or 2 to this subpart, you must use the collection and measurement procedures specified in § 63.11965(b)(1)(ii) and (b)(2) to demonstrate initial compliance.

■ 7. Revise § 63.11975 to read as follows:

§ 63.11975 What are my continuous compliance requirements for process wastewater?

(a) For each process wastewater stream that must be treated as specified in § 63.11965(b) and (c), you must demonstrate continuous compliance as specified in paragraph (b) of this section. For each process wastewater stream for which you initially determine in § 63.11970(b) that treatment is not required, you must demonstrate continuous compliance as specified in paragraph (c) of this section.

(b) Except as specified in § 63.11880(d), for each process wastewater stream that must be treated according to § 63.11965(b) and (c), you must demonstrate continuous compliance with the emission limits specified in table 1 or 2 to this subpart

by following the procedures specified in paragraphs (b)(1) and (2) of this section.

(1) Following your demonstration of initial compliance in § 63.11970(a), make monthly measurements of the vinyl chloride and total non-vinyl chloride organic HAP concentrations using the procedures and methods specified in § 63.11965(b)(1)(i) and (b)(2).

(2) You must demonstrate continuous compliance with the emission limits in table 1 or 2 to this subpart on a monthly basis, using the monthly concentration measurement specified in paragraph (b)(1) of this section.

(c) Except as specified in § 63.11880(d), for each wastewater stream for which you initially determine in § 63.11970(b) that treatment is not required, you must demonstrate continuous compliance as specified in paragraphs (c)(1) and (2) of this section.

(1) Conduct annual performance tests, measuring the vinyl chloride and total non-vinyl chloride organic HAP concentrations using the procedures and methods specified in § 63.11965(b)(1)(ii) and (b)(2).

(2) If any annual performance test conducted as specified in paragraph (c)(1) of this section results in a concentration of vinyl chloride or total non-vinyl chloride organic HAP in the process wastewater stream that is greater than or equal to the applicable emission limits in table 1 or 2 to this subpart, then you must meet the requirements of § 63.11965(c).

■ 8. Amend § 63.11980 by revising paragraphs (a)(1) and (b) to read as follows:

§ 63.11980 What are the test methods and calculation procedures for process wastewater?

(a) * * *

(1) You must conduct performance tests during worst-case operating conditions for the PVCPU when the process wastewater treatment process is operating as close as possible to maximum representative operating conditions. If the wastewater treatment process will be operating at several different sets of operating conditions, you must supplement the testing with additional testing, modeling or engineering assessments to demonstrate compliance with the emission limits.

* * * * *

(b) *Method for calculating total non-vinyl chloride organic HAP concentration.* If you are subject to the emission limits specified in table 1 or 2 to this subpart, then for each process wastewater stream analyzed using the methods specified in paragraph (a) of this section, calculate the sum of the measured concentrations of each HAP analyzed as required in § 63.11965(f)(1) by using the following equation:

Equation 1 to Paragraph (b)

$$C_{TNVCH} = \sum_{i=1}^{n} C_i$$

Where:

C_{TNVCH} = Concentration of total non-vinyl chloride organic HAP, in parts per million by weight (ppmw).

C_i = Concentration of individual HAP present in the sample analyzed pursuant to § 63.11965(f)(1) excluding vinyl chloride, in ppmw, where a value of zero should be used for any HAP concentration that is below the detection limit.

■ 9. Amend § 63.11985 by revising paragraphs (a)(8)(ii) and (b)(8) to read as follows:

§ 63.11985 What notifications and reports must I submit and when?

* * * * *

(a) * * *

(8) * * *

(ii) You must include results of the initial sampling used to determine initial compliance with the vinyl chloride and, if applicable, total non-vinyl chloride organic HAP limits in table 1 or 2 to this subpart.

* * * * *

(b) * * *

(8) For wastewater operations, you must include the results of monthly vinyl chloride and, if applicable, monthly total non-vinyl chloride organic HAP concentration results for each process wastewater stream discharged from the affected source that did not meet the process wastewater emission limits in table 1 or 2 to this subpart.

* * * * *

■ 10. Amend § 63.11990 by:

■ a. Revising paragraph (i) introductory text and paragraph (i)(4); and

■ b. Removing paragraph (i)(5).

The revisions read as follows:

§ 63.11990 What records must I keep?

* * * * *

(i) *Process wastewater.* For treatment processes, you must maintain the records specified in paragraphs (i)(1) through (4) of this section.

* * * * *

(4) All testing data, including monthly measurements of the concentrations of vinyl chloride, and if applicable, the concentration of total non-vinyl chloride organic HAP in each process wastewater stream required to be measured, as specified in § 63.11975.

* * * * *

■ 11. Amend table 2 to subpart HHHHHHH of part 63 by revising the entry ''4. Process Wastewater'' and adding footnote c to read as follows:

TABLE 2 TO SUBPART HHHHHHH OF PART 63—EMISSION LIMITS AND STANDARDS FOR NEW AFFECTED SOURCES

For this type of emission point . . .	And for this air pollutant . . .	And for an affected source producing this type of PVC resin . . .	You must meet this emission limit . . .
* *	* *	* *	*
4. Process Wastewater	a. Vinyl chloride	All resin types	0.28 ppmw.
	b. Total non-vinyl chloride organic HAP [c].	All resin types	0.018 ppmw.
* *	* *	* *	*

[c] For new affected sources, as defined in § 63.11870, the total non-vinyl chloride organic HAP emission limit does not apply as specified in § 63.11880(d).

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