

facility immediately, and the facility would be required to comply with the subpart immediately upon emitting HAP. This would be a condition of approval, and the facility must agree to it during the request/approval process. If the facility fails to give 30 days notice of its intent to emit HAP from the affected operations and/or fails to comply with the subpart upon emitting HAP, it could be subject to an enforcement action.

If the facility has no reason to be subject to CAA title V permitting requirements after approval of a request under Option 1, it could apply to its permitting authority to rescind the permit. This would be the case if the only reason that a facility was required to have a title V permit was the fact that it was subject to the NESHAP subpart that no longer applies after the approval.

If the facility continued to be subject to title V for other reasons, such as major status for HAP or other pollutants, the "applicable requirements" that come out of the request/approval process would be added to the title V permit. These would include the requirement not to emit HAP from the affected operations without 30 days notice; the stipulation that the NESHAP subpart applies, and that the facility must comply immediately upon emitting HAP; and any additional compliance measures imposed as a condition of approval. Similarly, the requirements of the subpart itself would be removed from the title V permit.

From the perspective of part 63, the facility would no longer be subject to the subpart upon receiving written approval of its request from the Administrator. We believe that the facility should generally be able to implement the approved change in status immediately, with any process needed to revise the title V permit taking place afterwards.

C. Option 2: Facilities That Implement Pollution Prevention To Reduce HAP Emissions To at Least the Level of a NESHAP Subpart

We are proposing to add § 63.18 to the General Provisions to address facilities that are subject to a NESHAP subpart on the first applicable compliance date, and have subsequently implemented P2 measures to achieve and maintain HAP emissions reductions equivalent to or better than the MACT level of control for some or all of the regulated sources of emissions. Under the proposed Option 2, such facilities could submit a request to the Administrator for P2 alternative compliance requirements.

If the request is approved, the alternative compliance requirements

would replace requirements specified in the subpart. The P2 alternative compliance requirements would remain in force as long as the facility continues to use the P2 measures and maintains the HAP emissions reductions described in the approved request.

A facility would be eligible for Option 2 if the following two conditions are met for a particular NESHAP subpart:

- The facility was subject to the subpart on the first compliance date that applied to the facility under the subpart.
- The facility has implemented P2 measures to reduce HAP emissions to at least the level required under the subpart for one or more of the regulated sources of emissions, and continues to maintain those reductions.

The first condition is the same as presented above in Option 1 for facilities that eliminate regulated HAP emissions entirely. The second condition would require the facility to use P2 to reduce HAP emissions, to at least the level of the subpart requirements, for at least one source of emissions that is subject to an emission limitation under the subpart. Option 2 differs from Option 1 in that this condition would not require the facility either to completely eliminate HAP emissions or to apply P2 across all the sources of emissions regulated under the subpart. Instead, the facility could apply for P2 alternative compliance requirements for any regulated sources of emissions on which it has implemented P2 and achieved or exceeded the HAP emissions reductions required under the subpart.

A facility could submit a written request to the Administrator for P2 alternative compliance requirements at any time after the subpart's first applicable compliance date. As defined in § 63.2 of the General Provisions, "Administrator" means the EPA Administrator or his or her authorized representative, such as a State that has been delegated the authority to implement the provisions of part 63. For Performance Track member facilities, the Administrator would designate a central contact within the EPA to facilitate and expedite the review of such requests for P2 alternative requirements. Owners and operators of Performance Track member facilities would be encouraged to submit their requests to the designated Performance Track contact within EPA in addition to the EPA Administrator.

The request may include any information that the facility considers useful to demonstrate that alternative compliance requirements are justified. At a minimum, the proposed rule would

require that the written request include these nine items:

- A statement identifying the NESHAP subpart and the operations that are subject to the subpart, and indicating that the facility is applying for P2 alternative compliance requirements.
- A description of each source of emissions for which the facility is requesting P2 alternative compliance requirements.
- A description of the P2 measures used to reduce HAP emissions, and a demonstration that the measures qualify as P2 as defined in § 63.2. (This definition is proposed to be added as part of this rulemaking; see section III.A of this document.)
- A demonstration that the P2 measures have reduced HAP emissions from each source of emissions for which alternative compliance requirements are being requested to at least the level that is required by the subpart.
- Proposed specific P2 alternative compliance requirements for the designated sources of emissions which ensure that the commitment both to continue using the P2 measures and to maintain the described HAP emissions reductions is enforceable as a practical matter, along with a demonstration that the proposed alternative requirements will effectively assure continuous compliance with the commitment.
- A citation of each applicable requirement in the subpart and General Provisions that the facility proposes to replace with the P2 alternative compliance requirements, accompanied by an explanation of how the proposed alternative requirements satisfy the intent of the replaced requirements and/or why the replaced requirements are not necessary.
- A certification (signed by a responsible official) that the facility will not discontinue the P2 measures or fail to maintain the HAP emissions reductions described in the request without notifying the Administrator in writing at least 30 days prior to doing so.
- A certification (signed by a responsible official) agreeing that, upon discontinuing the P2 measures and/or failing to maintain the HAP emissions reductions described in the request, the subpart again applies and the facility must comply immediately with all of the requirements of the subpart.
- A certification (signed by a responsible official) that the facility is subject to all applicable requirements of the subpart not proposed to be replaced by P2 alternative compliance requirements.