

The first four required items would simply identify the NESHAP subpart and the affected equipment, indicate that the facility wishes to use this provision to obtain P2 alternative compliance requirements, and demonstrate that the facility meets the eligibility requirements. For the fifth and sixth items, the facility would propose and justify the alternative compliance requirements and identify the requirements in the subpart that the alternative requirements would replace. The seventh and eighth items certify that the facility acknowledges it would be required to continue the approved alternative P2 measures, and understands the consequences for failing to do so. The ninth item certifies that the facility will continue to comply with those portions of the subpart that were not replaced by approved alternative P2 measures.

Under Option 2, approved P2 alternative compliance requirements would actually replace the compliance requirements in the NESHAP subpart and become the facility's applicable requirements under part 63 for the subpart. However, unlike Option 1, the facility would remain subject to the subpart. Thus, the facility would be required to continue to meet all requirements of the subpart for any regulated sources of emissions not included in the request, and it would remain subject to title V permitting requirements.

To provide certainty to both the facility and the enforcement agency as to exactly what requirements apply to each regulated source of emissions, the proposed rule would require that the facility's request clearly tie the proposed P2 alternative compliance requirements to the designated sources of emissions. Where appropriate, the facility could propose different alternative requirements for different sources of emissions, as long as applicability is clear. In addition, the facility would be required to specify exactly which requirements of the subpart and General Provisions would be replaced by the proposed P2 alternative compliance requirements, and for which sources of emissions.

For its P2 alternative compliance requirements, the facility would be required to propose measures that assure compliance with its commitments both to continue using the P2 measures and to maintain the HAP emissions reductions described in the request. Because the facility would remain subject to the subpart, the alternative requirements would be sufficient to demonstrate continuous compliance.

To demonstrate and assure continuous compliance, we expect that the P2 alternative compliance requirements will include monitoring, recordkeeping, and reporting requirements. In this context, we mean "monitoring" in a broad sense, which could involve simply tracking the purchases and composition of the materials used in the operations covered by the alternative requirements. Depending on the situation, appropriate monitoring may involve more rigorous measures, up to and including continuous instrumental monitoring of process or control device operating parameters or of the exhaust stream. In general, the monitoring program should gather relevant data with sufficient frequency and accuracy to form a conclusive basis for assessing whether the facility maintained continuous compliance with its commitments for P2 and HAP emissions reductions. The monitoring program should include appropriate quality assurance and quality control procedures to ensure the continued reliability of monitoring data.

Similarly, the facility would be required to propose recordkeeping requirements sufficient to document conclusively whether the facility maintained continuous compliance. One existing recordkeeping requirement in the General Provisions that we believe generally should not be replaced by alternative requirements is § 63.10(b)(1), which governs availability and retention of records. The facility's proposed reporting requirements would include periodic reporting to disclose periods of noncompliance or to confirm continuous compliance, as applicable, for each reporting period. Reports also should address the performance of the facility's monitoring program. We expect that alternative reporting requirements typically will conform to the schedule of the existing requirements for the sources of emissions not covered by the P2 alternative compliance requirements, and that the facility would submit combined reports for all of the sources of emissions subject to the subpart.

The facility should not overlook startup, shutdown, and malfunction (SSM) requirements in its request for P2 alternative compliance requirements. It may need to revise its SSM plan, and may want to propose alternative SSM recordkeeping or reporting requirements to match its P2 measures.

The mechanics of the review process under Option 2 would be identical to the process under Option 1. A facility that submits a request under Option 2 would remain subject to all the applicable requirements of the NESHAP

subpart in question until the Administrator notifies it in writing that the request for P2 alternative compliance requirements has been approved. When the Administrator receives a request under Option 2, he or she would notify the facility in writing of approval or intent to deny approval within 45 days after receiving the original request. (Performance Track member facilities would be notified within 30 days.) However, failure by the Administrator to meet this deadline would not constitute approval of the request.

If the Administrator intends to disapprove the request, he or she would include the following three items in the written notification:

- Notice of the information and findings on which the intended disapproval is based.
- Notice of the opportunity for the facility to present additional information before final action on the request.
- A deadline for the facility to present the additional information.

If the facility failed to provide additional information by the deadline established above, the Administrator would deny the request. If the facility provided additional information by the deadline, the Administrator would notify the facility of approval or disapproval within 45 days after receiving the information. (Performance Track member facilities would be notified within 30 days.) However, failure by the Administrator to meet this deadline would not constitute approval of the request.

If the Administrator found that the facility meets the requirements under Option 2, he or she would approve the facility's request for P2 alternative compliance requirements. However, the Administrator could condition approval on additional compliance measures as deemed necessary. The Administrator would transmit written approval to the facility that would include the following components:

- Identification of the specific regulated sources of emissions covered by the approval.
- The P2 alternative compliance requirements that apply, including any additional compliance measures deemed necessary. (If necessary, the alternative requirements that apply to different sources of emissions would be clearly specified.)
- The applicable requirements of the subpart that no longer apply to the designated sources of emissions. (Again, requirements would be differentiated by source of emissions, if necessary.)