

suggested that the definition of malfunction could be revised to accomplish this. We think this is a good idea, and we have revised the definition accordingly. We think that this change will make it clear that events that do not cause, or have the potential to cause, emission limitations in an applicable standard to be exceeded need not be included either in the SSM plan or in periodic malfunction reports.

We note that 40 CFR 63.10(d) describes two distinct types of SSM reports. Periodic SSM reports are submitted on a semiannual basis and are described in § 63.10(d)(5)(i). Immediate SSM reports which are triggered by a particular event, and which require an oral or facsimile report within 2 working days and a written report within 7 working days, are described in § 63.10(d)(5)(ii). During our review of the comments concerning the various SSM reporting provisions, we realized that there is an unresolved conflict between an amendment we made in the April 5, 2002 final rule and the language of 40 CFR 63.10(d) as it is currently codified. Although we amended 40 CFR 63.6(e)(3)(iv) to limit the immediate reporting obligation for actions which are not consistent with the SSM plan to those instances where the source exceeds the relevant emission standard, we did not make a similar conforming change in 40 CFR 63.10(d)(5)(ii). This discrepancy was also specifically identified by one commenter. We are amending § 63.10(d)(5)(ii) to correct this problem.

We are also making another conforming amendment in § 63.10(d)(5)(i). Since immediate reports of actions not consistent with the SSM plan are not required if the emission limitations in the standard are not exceeded, we believe that the periodic SSM report should identify any instances in which actions taken were not consistent with the plan but no emission limitations were exceeded.

#### 4. Correction of Plan Deficiencies

We proposed another small change to 40 CFR 63.6(e)(7). The rule as amended in April 5, 2002 provides that EPA or the permitting authority “may” require that an SSM plan be revised if certain specified deficiencies are found. In the proposal, we stated that we could not foresee any circumstance where revision of an SSM plan should not be mandatory if it has been specifically found to be deficient under one of the criteria set forth in this section. Therefore, we proposed to change the language to make such revisions mandatory rather than discretionary.

Some commenters objected to this proposal, but their principal concern was that the criterion requiring the SSM plan to satisfy the duty to minimize emissions might be interpreted in a manner contrary to the other general principles we have articulated. We believe this concern is fully resolved by the amendments to the provisions concerning the general duty to minimize emissions which we are adopting and described above.

Some commenters also argued that the current practice of giving permitting authorities discretion concerning whether to require changes in an SSM plan works well, and there is no reason to change it unless a problem can be demonstrated. We find this argument unpersuasive. If a permitting authority has specifically found that a plan is deficient according to one of the criteria, we see no reason why it should not be mandatory for corrective action to be taken.

#### *B. Other Sections of the General Provisions*

##### 1. Monitoring Definition

During the April 5, 2002, rulemaking, one commenter suggested that we revise the definition of “monitoring” in 40 CFR 63.2 to include the phrase “or to verify a work practice standard.” There are times when we must adopt a work practice standard under CAA section 112(h) rather than an emission standard under CAA section 112(d), and compliance with such a work practice standard is sometimes verified by activities which are similar in character to those required to monitor compliance with an emission standard. Therefore, we thought that the suggested revision was a sensible one. However, because the additional language was not originally proposed by EPA, we decided to take additional comment concerning this language.

One industry commenter supported the revised monitoring definition. Other commenters expressed concern that the revised definition could make changes in work practice verification a significant permit modification, or that the revised definition might require verification of work practices beyond the procedures specified in a particular MACT standard. We do not intend either of these results, and we are not persuaded that the revised definition will cause either of these problems. Therefore, we have retained the revised definition without change.

##### 2. Combined Compliance Reports

In the April 5, 2002, rulemaking, we also made a small change in the

language of 40 CFR 63.9(h)(2)(ii), by adding the phrase “(or activities that have the same compliance date)” in response to a industry commenter. The commenter was concerned that separate compliance reports might be required for compliance obligations that have the same date and requested the option of filing a single compliance status report covering multiple compliance obligations. Because the new language we adopted was not originally proposed by EPA, and some questioned whether it clearly achieved the intended purpose, we decided to request additional comment concerning this revision and potential alternatives.

All commenters on this change agreed with our original intent in making the change, but some commenters suggested that the language is confusing and proposed alternative language. We have adopted new language for § 63.9(h)(2)(ii) which is similar to the alternative language suggested by one of these commenters.

#### **III. Final Amendments to the Section 112(j) Provisions**

##### *A. General Applicability*

In the proposed rule, we stated our intent to include new language concerning general applicability in the final amendments to the section 112(j) rule. We proposed to state explicitly that no further process to develop a case-by-case MACT determination under section 112(j) is required for any source once a generally applicable Federal MACT standard governing that source has been promulgated. In our view, it is obvious that no further process to implement section 112(j) with respect to a particular source is required or appropriate once a Federal standard governing that source has been promulgated under CAA section 112(d) or 112(h). All commenters who addressed this issue supported our proposal. A new paragraph effectuating it has been added to the general applicability provisions as 40 CFR 63.50(c).

Just as it is obvious that all activities to develop an equivalent emission limitation under CAA section 112(j) should end following promulgation of a generally applicable Federal standard, it is also clear from the statutory language that any final equivalent emission limitation which may be issued prior to adoption of such a standard is itself an enforceable Federal requirement, which remains in force until revised or supplanted pursuant to section 112(j)(6) and 40 CFR 63.56. Although it is clear from the statute that permitting authorities are expected to utilize the